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ABSTRACT

A Congressional hearing dealt with issues related to the repair program and facilities master plan of the District of Columbia Public Schools (DCPS). Opening remarks by Representative Thomas M. Davis outlined his concern over the delayed opening of the DCPS in the fall of 1997 because of uncompleted roof repairs, and the results from a performance audit of the DCPS under contract to the D.C. Control Board. Representative Eleanor Holmes Norton followed, stating her position on the issue of the D.C. Control Board coming to Congress for a legislative solution. The first panel to testify consisted of Mary Filardo, Director, 21st Century School Fund; William R. Lawson, Assistant Regional Administrator, Public Buildings Service, General Services Administration; and Jonathan Miller, Project Manager, Daniel, Mann, Johnson & Mendenhall Architects. The second panel to testify consisted of auditors that conducted a performance audit of the District school system: Andrew Brimmer, Chairman, D.C. Financial Responsibility and Management Assistance Authority; David Cotton, Cotton & Company; Ed Fritts, Senior Manager, Cotton & Company; and Marvin Allmond, Managing Partner, Allmond & Company. The final panel to testify included Anthony Williams, D.C, Chief Financial Officer; Ed Stephenson, Chief Financial Officer, DCPS; Dr. Bruce MacLaury, Chairman, DCPS Emergency Trustee Board; General Julius Becton, Chief Executive Officer, DCPS; and General Charles E. Williams, Chief Operating Officer, DCPS. The transcribed comments and prepared statements are supplemented by letters, statements, and other documents submitted for the record. (JM)

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D.C. PUBLIC SCHOOL 1997 REPAIR PROGRAM AND FACILITIES MASTER PLAN

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HEARING

BEFORE THE

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

JANUARY 23, 1998

Serial No. 105–123

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D.C. PUBLIC SCHOOL 1997 REPAIR PROGRAM AND FACILITIES MASTER PLAN

FRIDAY, JANUARY 23, 1998

House of Representatives,
Subcommittee on the District of Columbia,
Committee on Government Reform and Oversight,
Washington, DC.

The subcommittee met, pursuant to notice, at 11 a.m., in room 2203, Rayburn House Office Building, Hon. Thomas M. Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis and Norton.

Staff present: Ron Hamm, staff director; Howard Denis, counsel; Bob Dix and Anne Mack, professional staff members; Ellen Brown, clerk; and Cedric Hendricks, minority counsel.

Mr. Davis. If we can have the first panel. Good morning and welcome. This is our first hearing of the year, the start of a very busy session. Our experience in this subcommittee over the past 3 years indicates that we will not have a shortage of subjects to address in 1998.

Today, we are going to be addressing the D.C. public schools with an emphasis on the repair program and the facilities master plan.

In creating the Control Board, Congress stated in the preamble of the law that the District of Columbia government fails to provide its citizens with effective and efficient services in areas such as education. The conference report spoke of a severe mismanagement of the District of Columbia public school system and says that a strong immediate action must be taken to reverse the situation.

It remains the case that nothing is more important to the overall recovery of the District than to achieve more positive results in helping students obtain a quality education. While there has been some progress during the last couple years, I am concerned too many significant issues remain unresolved.

The efforts of local school officials are very much appreciated, in fact many of their achievements are remarkable. The new regime came on board following the Authority's order on November 15, 1996. They moved into a crisis situation, whose primary characteristics were turmoil. They had to deal with school closings, a school-by-school assessment, and an excruciating court case with, I might add, some very bizarre decisions handed down.

We must remember that while it was always intended that repair work would be done during the summer of 1997, it was never anticipated that all schools would have to be repaired by the opening day of classes. When the court ruled that no work could be done when anyone was inside the buildings, the crisis accelerated and deepened. And I might add, at my own children's school out in Fairfax County, they stayed there while repairs were being done, and normal operations around this region, as near as I can tell, are that children are allowed to remain in. So the ruling was bizarre and I am sure unanticipated.

There were virtually daily court hearings and new buildings were found to require repairs, and the same people responsible for the repairs were also responsible for the schoolchildren and for procurement. Throughout this difficult time it was even unclear exactly how much money would be available.

So I recognize that accomplishments were made. But there are, nevertheless, many troubling issues that need to be addressed and clarified today. For one thing, the performance audit released by the Control Board this month indicates the school system believed it could operate without sufficient rules, and the school system apparently took contradictory positions, seemingly complaining of the very regulations they themselves imposed.

I am troubled by the audit's finding that the school system had no process with regard to procurement. RFPs were poorly conceived and then hastily amended, all to no avail. I am particularly concerned because the audit makes it clear that viable options were available. For example, and I find this very irksome, some have claimed that the General Services Administration was not utilized despite explicit congressional authority to employ their expertise. The consultants could also have been utilized for the duration of the repair job, and I have not seen any evidence that any of these options were pursued.

Perhaps most troubling of all is the audit statement that the school officials were noncooperative. I don't understand how this could be possible in view of the fact that the actions were being taken by authority of the Control Board itself and that the Control Board was doing the audit by virtue of the powers vested in it by Congress. During this hearing, I hope that the Control Board will advise the subcommittee how they view the situation and what they intend to do about it.

In addition to issues of the repair program, I am also concerned about the facilities' master plan. Many of my concerns about this issue and others will be addressed in the form of questions to the witnesses who will be testifying under oath today. Suffice it to say, I hope we will have a status report of the master plan and what the next steps may be. As the master plan was based on an unaudited school census, I am curious as to whether or not the master plan is deemed to be final and to what extent Congress should rely on its findings as we make fiscal decisions.

I have already communicated my grave misgivings about the "signing bonuses." While the money to cover the taxes and the bonuses has been rescinded and has been referred to as a mistake, I remain really shocked by the entire incident.

What has been most disappointing is that this subcommittee has not been kept sufficiently informed by those who should have needed no encouragement whatsoever to keep us advised. On my part, I made many sincere efforts to communicate my own views to the Control Board and to the school system. I have urged repeatedly that true communication on real issues be forthcoming. But the response has fallen far short of the mark. Not only has this subcommittee been left out of the loop, but it appears to me that important information has been deliberately withheld. It is my sincere hope, no, stronger than that, it is my expectation, that meaningful communication with Congress will cease to be a problem. I remain optimistic that together we can work to continue to build on the progress that has been made.

I yield to Delegate Norton, the ranking member of the subcommittee, for an opening statement.

[The prepared statement of Hon. Thomas M. Davis follows:]

ONE HUNDRED FIFTH CONGRESS

Congreſs of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 Rayburn House Office Building

Washington, DC 20515-6143

REP. TOM DAVIS
CHAIRMAN, D.C. SUBCOMMITTEE
JANUARY 23, 1998
OPENING STATEMENT

Good morning and welcome. This is our first hearing of the year, and the start of a very busy Session. Our experience in this Subcommittee over the past 3 years indicates that we will not have a shortage of subjects to address in 1998. Today we will be addressing the D.C. Public Schools, with an emphasis on the Repair Program and the Facilities Master Plan.

In creating the Control Board, Congress stated in the preamble to the law that "the District of Columbia government fails to provide its citizens with effective and efficient services in areas such as education." The Conference Report spoke of "severe mismanagement of the District of Columbia Public Schools System" and says that "strong and immediate action must be taken to reverse this situation."

It remains the case that nothing is more important to the overall recovery of the District than to achieve more positive results in helping students obtain a quality education. While there has been some progress during the last couple of years, I am concerned that too many significant issues remain unresolved.

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fact many of their achievements are remarkable. The new regime came on board following the Control Board's Order of November 15, 1996. They moved into a crisis situation whose primary characteristic was turmoil. They had to deal with school closings, a school-by-school assessment, and an excruciating court case.

We must remember that while it was always intended that repair work would be done during the summer of '97, it was never anticipated that all schools would have to be repaired by the opening day of classes. When the court ruled that no work could be done when anyone was inside the buildings, the crisis accelerated and deepened. There were virtually daily court hearings, and new buildings were found to require repairs. And the same people responsible for the repairs were also responsible for the school children and for procurement. Throughout this difficult time it was even unclear exactly how much money would be available.

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I'm troubled by the Audit's finding that the school system had "no process" with regard to procurement. RFP's were poorly conceived and then hastily amended, all to no avail. I am particularly concerned because the Audit makes it clear that viable options were available. For example, and I find this very irksome, some have claimed that the General Services Administration was not utilized, despite explicit congressional authority to employ their expertise. A consultant could also have been utilized for the duration of the repair job. I have not seen evidence that any of these options were pursued.

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In addition to issues involving the repair program, I am also concerned about the Facilities Master Plan. Many of my concerns about this issue and others will be addressed in the form of questions to the witnesses who will be testifying under oath today. Suffice to say that I hope we will have a status report on the Master Plan, and what the next steps may be. As the Master Plan was based on an unaudited school census, I am curious as to whether or not the Master Plan is deemed to be final, and to what extent Congress should rely on its findings as we make fiscal decisions.

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I remain optimistic that together we can continue to build on the progress that has been made.

Ms. NORTON. Thank you, Chairman Davis.

I want to thank the chairman for calling this hearing on the D.C. public schools as part of the subcommittee's oversight responsibility and abiding concern about the District's children and their education. The achievement of excellence in education is not only a priority for District residents, improvement in education is used by Members of Congress as a bellwether issue for whether the city itself is improving, and appropriately so. The future of this generation of schoolchildren is tied to the future of the city itself.

Today, the two overriding goals for the D.C. public schools are a delicate balance between steady but rapid improvement on the one hand and stability and predictability on the other. These sometimes competing goals are both necessary if learning is to occur, performance of the children and the system is to improve, and the confidence of parents and residents is to be restored.

A combination of external events and internal problems have militated against stability and predictability. We can appreciate that General Becton and General Williams put a priority on fixing as many roofs as possible because leaking roofs had been a major cause of school closings before the two new administrators came. The decrepid D.C. government financial management system and the chaos caused by congressional rejection of the city's supplemental funding request may have hurt the roof repair effort. So did the extraordinary rigidity of the judge in the Parents United case, who failed to use her good offices to facilitate a settlement. However, the failure to get the roofs finished in time would have been more easily accepted by the general public if the leadership had been more flexible in devising a back-up strategy. Instead, like generals on a battlefield, they marched against the enemy, leaky roofs, ignoring the fact that it was school closings that had precipitated the memorable and acute crisis that ultimately brought new leadership to the school system in the first place. There were many options, including reworking the schedule for replacing roofs, especially since so many roofs remained to be done. Here is where consultation with those with deeper knowledge of the community, especially the elected school board, members of the city council, the Mayor, and parents, would have been useful.

The issue of consultation, of course, raises a problem that has vexed not only the generals, but also the board of trustees and the Control Board. Consultation is often messy, even tiresome, but results are almost always better, and less contentious when decisions are shared. If leaders insist on full steam ahead in their own tank, they had best make sure their armor is shatterproof, because all the complaints will come their way.

The failure to take consultation seriously, of course, has been most seriously felt in *Shook* v. *District of Columbia Financial Responsibility and Management Assistance Authority*. Although both the chairman of this subcommittee and I are lawyers with experience in fending off litigation, our suggestion that would have avoided a lawsuit altogether spelled out in detail to the Control Board was not taken seriously. By contrast, after a meeting I had with the elected school board, its members agreed to delegate their authority under existing D.C. law, and in addition to accept an advisory board. In this instance, it was the elected school board that showed the greater maturity and willingness to sacrifice power and the Control Board that took a needless risk that has unnecessarily reintroduced uncertainty into the conduct of school affairs.

At the same time, I appreciate that the Control Board following the *Shook* decision has not plunged ahead unilaterally. The next steps are by no means clear. There must be a dozen options. We would hope that the parties would strive for a resolution that ensures a seamless transition back to the elected board as planned by the year 2000, without disruption. Unfortunately, the public has not heard from the elected school board in months. However, if the elected board, the board of trustees, and the Control Board engage in thoughtful and disciplined problem solving, I believe that gradual power sharing can work. Such a transition would have to occur slowly and incrementally, proceeding from one step to the next, only as demonstrable success is apparent, because the public will not tolerate a return to needless quarrels, power trips, and failure to act.

A reintegration of the elected school board that has four new members who have never had the opportunity to exercise the authority given them by the voters is essential to assure that the elected school board is fully prepared to assume its role, as planned, by the year 2000. However, the necessary transition cannot begin now unless a structure and an approach is found that guarantees that there will be no reversion or slow down of the progress of reform. I urge the parties to begin.

The board of trustees has taken a fair amount of heat, in part because of raised expectations and the felt need of parents for immediate change. However, there have been some noteworthy accomplishments, among them an education plan already being implemented, and the closing of some schools, without which there may well have been congressional interference. Gradual power sharing could help legitimate the board of trustees, which is still mistrusted by many parents because of the paucity of representation of the public. I am disappointed, however, that there are rumors that some members of the board of trustees want to be the board, and the only board, notwithstanding the *Shook* decision. I hope that these rumors are untrue. The trustee's demean their service if they attach it to such hubris. I hope that the trustees will act in the spirit of public service that brought them to this thankless volunteer work in the first place. No one seeks to displace them quickly, yet it would be irresponsible not to use the *Shook* decision as an opportunity for planning and beginning to implement the inevitable transition to the elected school board that will occur in just 2 years. Given the difficult decisions that lie ahead, the trustees might well find that the best thing that could happen now would be to begin some sharing of the decisionmaking that would mean that the blame could also be appropriately shared.

All of the relevant subcommittees of the Congress agree that the *Shook* decision does not require a legislative solution. Each is clear that the parties should resolve the matter among themselves. A legislative solution would take months. Anyone who observed the long battle surrounding the last appropriation, as well as the earlier supplemental, will realize that we cannot discount the possibility of congressional provisions that no one in the city would want to live with. I certainly want to make my own position unequivocally clear, that I will strongly oppose any effort by the Control Board or anyone else to come to Congress for a legislative solution. No one ever promised that running the District, representing the District, or fixing our public schools would be a rose garden. However, rebuilding this city and its schools is more than doable if we all work together, consult before we leap, and are methodical in our approach.

Again, I want to thank the chairman, and I very much welcome today's witnesses.

Mr. DAVIS. Ms. Norton, thank you very much.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES
SURFACE TRANSPORTATION
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE ON
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WOMEN'S ISSUES

STATEMENT OF CONGRESSWOMAN ELEANOR HOLMES NORTON AT A D.C. SUBCOMMITTEE OVERSIGHT HEARING ON DISTRICT OF COLUMBIA PUBLIC SCHOOL 1997 REPAIR PROGRAM AND FACILITIES MASTER PLAN

January 23, 1998

I want to thank Chairman Tom Davis for calling this hearing on the D.C. public schools as part of this subcommittee's oversight responsibility and abiding concern about the District's children and their education. The achievement of excellence in education is not only a priority for District residents. Improvement in education is used by Members of Congress as a bellwether issue for whether the city itself is improving, and appropriately so. The future of this generation of school children is tied to the future of the city itself.

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I thank the Chairman and I welcome today's witnesses.

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Mr. DAVIS. I will now call our first panel to testify. The panel consists of Mary Filardo, the director of the 21st Century School Fund; Mr. William R. Lawson, the Assistant Regional Administrator in the General Services Administration; and Mr. Jonathan Miller, Daniel, Mann, Johnson & Mendenhall, who was directly involved in the 1997 repair program.

As you know, it is the policy of the committee that all witnesses be sworn before they testify, so if you would rise with me and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. I would ask unanimous consent that any written statements be made part of the permanent record, so if you have a long written statement that will all be in the permanent record.

We have read all the statements here, so if you could limit your oral comments to 5 minutes. I have a light here. When the light turns orange or yellow, you have 1 minute, and when it is red, the time is up so try to summarize at that point and then we can get right to the questions.

Let me start with you, Ms. Filardo.

STATEMENTS OF MARY FILARDO, DIRECTOR, 21ST CENTURY SCHOOL FUND; WILLIAM R. LAWSON, FAIA, ASSISTANT REGIONAL ADMINISTRATOR, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION; AND JONATHAN MILLER, PROJECT MANAGER, DANIEL, MANN, JOHNSON & MENDENHALL ARCHITECTS

Ms. FILARDO. Thank you. Good morning. I appreciate the opportunity to testify this morning.

I am Mary Filardo, the founding director of the 21st Century School Fund. The 21st Century School Fund is a small nonprofit organization supported by the Ford Foundation, Annie Casey Foundation, Freddie Mac, and Meyer Foundation.

It is our mission to build the public will and capacity to modernize schools. Our main focus has been the District, but we also are responsible for working with particularly urban districts in other parts of the country.

I have a master's degree in public policy. My specialty is public finance. I am a Truman Scholar from the District of Columbia and have spent 20 years prior to this work working in managing real estate and renovation in the private sector, all that time working on educational reform activities associated with D.C. public schools. Also in our office is Sarah Woodhead, who is an architect with many years' experience in school construction.

While my remarks today about the D.C. public school capital construction program are critical, I believe the District can develop and learn to manage a high quality, cost-effective capital construction program. What I would like to do is to summarize my longer remarks with four points.

One, I would like to make clear what we have found, that we think the cost of stabilization is highly underestimated and that the poor management associated with the summer stabilization program will continue into fiscal year 1998 if there is not significant intervention.

Why we think this is so, and some suggestions on what we can do about it: In terms of the cost of the program, it has been reported from the Cotton report that we paid a $7.2 million premium for this stabilization program. I estimate it conservatively at $15 million, money which the District can scarcely afford to misappropriate.

One of the things that led to this overspending is that the District replaced roofs on 13 schools that were less than 10 years old. This amounted to $8.9 million on roofs of less than 10 years. The District also paid, on average for the built up roof—and if I can take advantage of the visual over here—$19 a square foot. We are talking about only the flat portion of this roof. We only looked at 17 roofs.

In looking at the 17 roofs, all of which had 90 percent or more of the flat roof replaced, the District paid an average for the base contract of $19 a square foot. In Prince George's County, they have typically been paying to remove the roofs, replace them, an average of $6 to $8 a square foot. On just these 17 roofs, that represents a $6 to $7 million overpayment. This is a problem.

Now, you know, we can say that these were incredible situations that we were working under, and it will be different next time. There are suggestions, in terms of the fiscal year 1998 budget, to suggest this will not be the case, that we are heading down the same path.

The school system said it will replace windows in 22 schools this summer at an average cost of $800,000 a school. The school system has replaced windows before. In the last 4 years and they did it at a cost of about $340,000 a school. Even when we adjust this for inflation, we are looking at cost estimates that are 100 percent higher. The same is true with the boilers.

There may be explanations for these enormously inflated estimates, but with no oversight of the capital program, there have been no explanations asked.

Why do we continue to have problems in the capital program? I could have given you testimony similar to this before this administration came in. We identified much of it in the preliminary facility master plan, which we wrote for the Task Force on Education Infrastructure in 1995.

Why do we continue to be plagued by problems? First of all, there is still no master plan and adequate capital planning in the District. We still don't have credible enrollment numbers. We don't have standards on school size and utilization. We don't have a long-term education plan that clarifies issues, and we still have not taken this plan out with the proper technical parameters to the community for their input. We do not have systems in place, and the Cotton audit, I think, identified that accurately, and you will no doubt be hearing more about that.

Third, we don't have oversight. The board of trustees essentially took the position that what the administration would recommend was OK, they approved the master plan which was inadequate, they approved a capital plan which had estimates that were outlandish, and they approved the late initiation of this stabilization program when the scope was entirely beyond the division of facilities management, for many reasons which I can explain later.

The suggestions I have, unfortunately, are not magic and you have heard them before. We have been saying them for quite a while, but there is still the work that needs to be done: We need a shared vision for an equitable system of good quality education and appropriate schools. We need a master plan that is based on accurate information and officially adopted standards, and grounded in educational programs and practices and embedded through communities and neighborhoods. We need the capital plan, which falls out of the master plan and establishes priority projects within the context of the budget and political realities of specific communities, the schools, and the District's priorities. We need an operational infrastructure that can manage the information, the planning, and the implementation of a capital program. We need organizational structure. We need administrative guidelines, procedures, procurement regulations. These are all the boring pieces to good government, but unless we have an administration that really understands that they have to invent these, that they are not there to be used, we will continue to repeat the mistakes of this year and of previous years. We need oversight of operations. And finally, we need stable funding, and I think that this can't be underestimated. Without stable funding we will not be able to undertake a more efficient and comprehensive approach to school modernization. It will not be possible to manage the program well.

Typically there has been an up and down pattern of funding. You go from feast to famine and it further perpetuates the notion that you have to get in there and do it all right away because next year maybe the money won't be there. This is an enormous problem and I think we cannot underestimate its role in this year's fiasco. With a stable funding base, we should be able to expand that program as the District expands its capacity to adequately manage its capital program. Thank you.

Mr. DAVIS. Thank you very much. We will have some questions, with the issues you have raised, but I will give the school system ample time to respond to those.

Ms. FILARDO. Yes.

[The prepared statement of Ms. Filardo follows:]

Testimony Before the United States House of Representatives
Committee on Government Reform and Oversight
Mary Filardo, 21st Century School Fund
JANUARY 23, 1998

I am the founding director of the 21st Century School Fund The 21st Century School Fund is a small non-profit organization The mission of the 21st Century School Fund is to build the public will and capacity to modernize public schools The goals of the Fund concerning school modernization are first to ensure that the facilities support educational programs, not just house children, second, that facilities stabilize and enhance neighborhoods and communities and third to develop alternative ways to finance school construction through public/private partnerships The fund is also responsible for providing information and assistance to other urban school districts on facilities master and capital planning

I have a masters degree in public policy, specializing in public finance I am a Truman Scholar from the District of Columbia and spent 20 years managing real estate and renovation in the private sector while active in education reform activities associated with DCPS

The other full time staff member of the 21st Century School Fund is Sarah Woodhead She is a registered architect with over 15 years of experience working in design and planning, two years as senior project manager and planner at DCPS and more recently three years as architect at the School Facilities Branch at the Maryland Department of Education We are both residents of the District of Columbia and have children in the District of Columbia Public Schools We have been assisted in our work by a dedicated team of pro bono legal, finance, real estate, construction and information system professionals

The 21st Century School Fund served as staff to the 1995 Task Force on Education Infrastructure for the 21st Century which prepared the Preliminary Facilities Master Plan 2005 In 1997 we prepared an Alternative Educational Facilities Master Plan 2007 We are supported by the Ford Foundation, Annie E Casey Foundation, Meyer Foundation and the Freddie Mac Foundation

While my remarks about DCPS today are critical, I raise them because I believe the District of Columbia School System *can* learn to manage a high quality, cost effective capital construction program I also believe that it is essential that the District's residents insist on good the government that a well managed school construction program represents Unless the wider public demands accountability, cost effectiveness and quality programs, services and systems from our public institutions, no amount of imported leadership, emergency authority or management consultants will be able to implement or sustain the changes required to bring these reforms about

The District school system does not yet have the capacity to adequately manage a capital construction program In fact, we have observed the same fundamentally flawed information planning and management functions under this new administration that the Control Board was supposed to remedy through its firing of Franklin Smith, demoting of the Board of Education and bringing in a new management team and Board of Trustees

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The following are areas that continue to plague DCPS

1. There is still not an adequate educational facilities master plan
2. The recent roofing "emergency" illustrates a host of flaws in the management of the school system's capital program
3. Both the FY 1997 and FY 1998 capital programs indicate grossly inflated costs

On the DCPS Educational Facilities Master Plan
We're missing

- credible enrollment numbers,
- a long-term education plan that clarifies such issues as whether or not DCPS will institute universal pre-k or middle schools throughout the system,
- adoption of standards on school size and utilization for the current building inventory
- input from communities on their educational facility needs

The segregation of stabilization, functionality and modernization in the school system's plan is a serious problem. The roof, boiler and window replacements undertaken as part of "stabilization" result in significant funds being spent in schools, such that it will be unlikely that the District will return to these buildings to do the important work of bringing the building up to a quality standard to support education. The State of Maryland, for example refuses to fund these multi-systemic projects, because when they are done, the school systems rarely go back to address educational issues.

Without an adequate facilities master plan, we will continue to lurch from crisis to crisis, not utilize scarce capital resources effectively, and -- most importantly -- continue to have inadequate school buildings for our children to learn in.

2. The recent roofing "emergency" illustrates a host of flaws in the capital management system-- or, more accurately, reveals that there is no system in place.

- The decision to replace not repair (while lauded by many) was too simplistic. DCPS had replaced roofs at 66 schools in the last ten years, and 13 of these roofs, which no doubt had leaks, but were less than ten years old were replaced this summer.

- The extremely late initiation of the roofing program, at a scope way beyond the capability of the Division of Facilities Management, indicated poor decision making in the administration and a complete lack of oversight on the part of the Control Board and the Board of Trustees.

- The Cotton audit, which you will no doubt hear much more about, documents that no systems were put in place for standard contract management or procurement. You may not remember that in the summer of 1997, two former DCPS contract officers and a contractor were convicted for taking and giving kick-backs for DCPS facilities contracts under the previous administration, in what was a similar environment.

Without a responsible, transparent, system in place, that public employees are required to follow, the District gets less than what it pays for. Contractors, wary of a muddled process are reluctant to bid except at higher and higher premiums The lack of clear decision making and management procedures creates conditions susceptible to corruption Whether or not illegal activities actually occur, it undermines the public confidence and support for the capital program

Finally,

3 The cost of the FY1997 roofing program was more than the District could afford

- The $7.2 million premium widely reported from the Cotton Audit is understated The GAO is doing a fiscal audit that will address this directly However, I estimate the cost overage of the summer roofing program at a figure closer to $15 million
- DCPS determined to replace—not repair roofs, even though their window for timely completion was inadequate They spent $8.9 million replacing roofs on 13 schools that had had roof replacements within the last 9 years, according to DCPS records
- DCPS paid, on average, $19 per SF, (before all change orders are in) to replace built up roofing Prince George's County pays on average between $6-$8 per square foot for roof replacement on their old schools This difference represents an excess cost to the emergency roof replacement of $6 to $7 million on only 17 of the roofs replaced this summer

4 For FY1998, there is reason to think that the approach used for the 1997 roofing program will be repeated, unless there is a significant intervention

- The DCPS is estimating that it will spend $18 million to replace windows at 22 schools, an average cost of $800,000 per school During FY1991-FY1995 when DCPS replaced windows in 15 schools the average cost for design and construction was $339,995 Included within these 15 schools were Cardozo and Wilson Senior High School 2 of the largest schools in the system Even when you adjust for inflation, the DCPS is estimating window replacements at a rate 100% higher than historic DCPS costs

- The same is true for their FY1998 estimates for boiler replacements The average cost of boiler replacement in 15 schools completed between FY1991 and FY1995 was $145,153 DCPS is estimating a cost to the public of an average of $650,000 for boiler replacement for FY1998

- There may be explanations for these highly inflated estimates, but with no oversight of the capital program, no explanations have been asked of DCPS

The District of Columbia can not afford to conduct local government like disaster relief or a military emergency We need to use processes and procedures which are subject to public scrutiny and oversight The schools are public buildings and the dollars are public dollars The resources to eliminate the deferred maintenance and to modernize our schools are extremely scarce and are still grossly inadequate to the task The millions lost through mismanagement can never be converted into the healthy, safe, and educational appropriate environments that should be standard in every school in the District We can do better

FY 1997 Roof Projects

Roof nformation from DCPS Court Documents and DCPS Contracts Administration Contract Status Report as of 10/9/97

[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
CLEVELAND	1912	1978	FY98	$63,938	10,390	0	0	0%			DCPS
ADAMS	1930		FY97	$159,600	20,880	960	960	5%	$63,000	65.63	Beta Construction
WILSON	1935	1987	FY97	$1,140,000	98,005	14,743	14,743	15%	$433,040	29.37	Napa Development
MACFARLAND	1923	1988	FY97	$501,600	50,440	8,498	8,498	17%	$727,000	85.55	Beta Construction
WINSTON	1976		FY98	$486,594	37,800	7,600	7,600	20%			DCPS
LAFAYETTE	1931		FY97	$771,880	53,825	12,248	12,248	23%	$520,000	42.46	Beta Construction
ANACOSTIA	1935	1990	FY97	$501,600	102,228	27,298	27,298	27%	$468,750	17.17	North American Telecom
JEFFERSON	1940		FY97	$570,000	48,355	15,508	15,508	32%	$544,000	35.08	Beta Construction
YOUNG	1931		FY98	$136,733	59,615	26,894	26,894	45%	$621,687	23.12	MTI Construction
DEAL	1928	1987	FY97	$684,000	56,502	28,808	28,808	51%	$1,150,000	39.92	Roofers Inc
SPINGARN	1941	1987	FY97	$957,600	59,943	31,625	31,625	53%	$1,300,000	41.11	Roofers Inc.
BUNKER HILL	1938		FY98	$339,630	26,752	14,352	14,352	54%	$460,000	32.05	Beta Construction
FLECTHER-JOH	1977	1988	FY97	$2,074,800	90,052	52,482	52,482	58%	$592,900	11.30	Turner Construction
BARNARD	1926	1988	FY97	$427,500	36,007	20,997	20,997	58%	$474,620	22.60	Roofers Inc.
BELL	1915		FY98	$462,300	17,870	10,620	10,620	59%	$488,000	45.95	D. Gibson Restoration
GAGE ECKINGT	1977		FY98	$462,913	34,317	20,789	20,789	61%	$687,740	33.08	Roofers Inc
ROOSEVELT	1932		FY97	$855,000	117,201	71,705	71,705	61%	$1,921,000	26.79	Roof Depot of Va.
GREEN	1965	1983	FY97	$57,000	40,276	24,713	24,713	61%	$617,500	24.99	U.S. Roofing
SHAED	1971	1984	FY97	$228,000	25,739	18,139	18,139	70%	$395,000	21.78	Beta Construction
MAURY	1890	1969	FY97	$330,600	24,420	24,220	17,220	71%	$413,000	23.98	Beta Construction
PHELPS	1934	1983	FY98	$739,200	79,706	62,982	62,982	79%	$1,339,700	21.28	Urban Organization, Inc
BROWNE	1931	1988	FY97	$342,000	76,079	61,335	61,335	81%	$930,000	15.16	Urban Organization, Inc
PARK VIEW	1916	1967	NO		33,394	28,354	28,354	85%	$838,458	29.57	Roofers Inc.
M.M. WASHINGT	1912		FY97	$433,200	24,345	20,725	20,725	85%	$411,000	19.83	Beta Construction
DUNBAR	1977		FY97	$798,000	92,124	84,632	84,632	92%	$2,380,000	28.12	Beta Construction
J F COOK	1921	1988	FY97	$228,000	18,344	17,282	17,282	94%	$646,432	37.40	Roofers Inc.
BANCROFT	1924	1993	FY97	$312,533	20,400	19,300	19,300	95%	$269,000	13.94	Napa Development
KETCHAM	1909		FY97	$285,000	46,625	44,525	44,525	95%	$189,000	4.24	Napa Development
RANDLE HIGHLA	1912	1984	FY97	$285,000	26,131	25,623	25,623	98%	$596,700	23.29	North American Telecom

FY 1997 Roof Projects

Roof information from DCPS Court Documents and DCPS Contracts Administration Contract Status Report as of 10/9/97

BURRVILLE	1980		FY97	$558,600	42,844	42,244	42,244	99%	$1,088,000	25.76	North American Telecom
BIRNEY	1950	1987	FY98	$342,000	22,019	21,803	21,803	99%	$474,000	21.74	North American Telecom
FRANCIS	1927		FY98	$884,125	53,300	53,000	53,000	99%	$556,255	10.50	MTI Construction
BRUCE MONRO	1973		no		41,141	40,985	40,985	100%	$696,000	16.98	Beta Construction
AITON	1960	1983	no		24,768	24,720	24,720	100%	$540,000	21.84	U.S. Roofing
BEERS	1942	1988	FY97	$57,000	32,550	32,550	32,550	100%	$610,000	18.74	Beta Construction
BENNING	1976		FY98	$474,240	34,414	34,414	34,414	100%	$635,000	18.45	North American Telecom
GARFIELD	1888		FY97	$570,000	23,267	23,267	23,267	100%	$670,000	28.80	Beta Construction
LUDLOW TAYLO	1969		FY97	$171,000	30,331	30,331	30,331	100%	$525,851	17.34	Roofers Inc.
M D LEE	1971		FY97	$456,000	34,242	34,242	34,242	100%	$909,000	26.55	Beta Construction
MERRITT(GSA)	1976		FY97	$1,499,000	49,100	49,100	49,100	100%		0.00	GTC
NALLE (GSA)	1959	1970	FY97	$444,600	33,122	33,122	33,122	100%	$269,000	8.12	Napa Development
ORR	1974		FY97	$912,000	39,724	39,724	39,724	100%	$488,300	12.29	North American Telecom
ROSS	1896		NO		5,000	5,000	5,000	100%	$119,069	23.81	D. Gibson Restoration
SHADD(GSA)	1955	1988	FY97	$342,000	31,100	31,100	31,100	100%		0.00	GSA
SHARPE HEALT	1959		FY97	$148,200	42,400	42,400	42,400	100%		0.00	GSA ?
STUART HOBSO	1927		FY97	$570,000	41,031	41,031	41,031	100%	$637,000	15.52	Beta Construction
TRUESDELL	1908		FY98	$143,655	29,623	29,623	29,623	100%	$697,810	23.56	Roofers Inc
TYLER(GSA)	1949	1980	FY97	$160,000	17,500	17,500	17,500	100%	$221,000	12.63	ESI (Phase 1)
GSA Various Roofs A, 3 roofs									$1,098,687		
GSA Various Roofs, 8 roofs									$3,963,240		
TOTAL				$22,282,703	2,042,853	1,423,093	1,416,093	75%	$33,675,739	23.78	

Moving Toward an Exemplary System

A Report on the First Year's Efforts to Reform D.C.'s Public Schools

The District of Columbia Public Schools

November 1997

Facilities Management

- ***"Buildings are in Disrepair and Underutilized and a Lack of an overall facilities plan results in ineffectively targeted facilities funding"***

not approved by council Mayor

On February 28, 1997, DCPS submitted a Long Range Facilities Master Plan to Congress. This plan, which has been revised and updated as conditions have changed, was the basis for the major capital initiative the Summer of 1997. The Plan will serve as the basis for all future capital improvement initiatives and provides a vehicle for all interested parties to participate the formulation of subsequent DCPS long term plans

- ***"Fire code violations are abundant"***

When the Becton Administration arrived in November, the new team inherited over 5,000 fire code violations. By May of 1997, this number had been reduced to 0. Monitoring and abating fire code violations is a high-priority, ongoing activity to ensure that DC school children can benefit from a safe and hazard free school environment.

- ***"Aging buildings seriously hamper the District's learning environment"***

The statement exposes a reality that DCPS continues to confront: the average age of a DCPS facility is 65 years (some are over 100 years old) and most of these buildings had not been properly maintained for many years.. Obviously, the initial focus of the administration was the stabilization the existing facilities inventory. The Long Range Facilities Plan lays out a three-phase process— stabilization (to make existing buildings safe and free of hazards), functionality (to upgrade existing facilities) and modernization (to provide a state-of-the-art learning environment). At present DCPS has undertaken the following to address the crisis in facilities:

Repair Type	**Number of Repair/ Replacements Needed**	**Number to be Repaired/Replaced In 1998**	**Estimated Cost (in millions)**	Completion Date
Roofs	114	47	$19	August
Boilers	72	40	$26	December
Chillers	38	38	$20	March
Windows	112 schools	22 schools	$18	August

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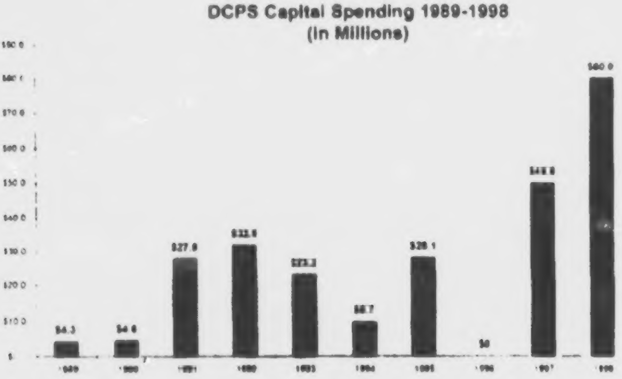
- *"Capital funds have historically been poorly managed."*

The chart below illustrates the poor planning and the sporadic expenditure of capital funds by DCPS past administrations. The chart illustrates that DCPS will spend more money in 1997 and 1998 ($129.8 million) in capital improvements than it did in the previous 7 years combined ($129.7 million)



In order to address the problems caused by mismanagement in the past, as well as to prevent similar situations from arising in the future, the Becton Administration prepared the Capital Improvement Projects Budget with a detailed, school-by-school list of capital improvement dollars for the next three years.

A sound plan and reliable team have encouraged Congress, the DC Financial Authority and other funders to provide record amounts of resources to DCPS. DCPS will continue to seek additional funds to address our capital needs from all available sources.

- *"The District may have too many schools."*

The Becton Administration recognizes that there is a direct link between DCPS problems of dilapidated facilities and its problem of excess capacity. By closing the most dilapidated properties, DCPS could effectively concentrate capital and operating dollars on a smaller number of schools.

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However, closing schools is a sensitive matter involving many variables. During the development of the Long Range Facilities Master Plan, DCPS conducted an evaluation of the instructional space on hand, the current number of students using space and other criteria. Based on this assessment and data on file, 18 schools were identified for potential closure. After careful consideration of all factors surrounding the closing of schools, the Emergency Educational Board of Trustees voted to close 11 of those schools on April 28, 1997.

DCPS ha acted to liquidate excess property, generating funds that can be re-invested in capital improvements to aging facilities. To date, DCPS has gathered or will gather the following amounts:

• *Sales Closed*	$400,000
• *Sales Pending Sellout*	$750,000
• *Sales Approved Pending Control Board Approval*	$410,000
• *Sales Approved Pending Legal Review and Control Board Approval*	$9,040,000
• *Sales Awaiting Processing*	$9,000,000

These are the first successful dispositions of excess DCPS buildings in many years and the first action on an inventory of more than 60 excess properties, many of which have stood empty and become eyesores in their communities.

- ***"DCPS has never developed a strategic facilities plan that prioritizes the use of its limited resources. Such a plan must consider educational needs, demographic characteristics, real estate factors, and building needs."***

The Long Range Facilities Master Plan was issued with 5 volumes of backup documentation data" including demographic data, a Real Estate Disposition Strategy and both internal and external assessments of building needs.

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Comparison of number of students tested on Stanford 9, Spring 1997 and
Official DCPS Membership 1996-97 SY

Official Membership 1996-97	**78,648**
Preschool (not tested)	-1,105
Kinder (not tested)	-7,469
7th grade (not tested)	-4,875
9th grade (not tested)	-4,951
12th grade (not tested)	-3,042
NONGRADED (not tested)	-3,581
Special ed students tested	2,688
100% of official membership to be tested	**56,313**
# of students actually tested	-43,445
Difference (22.8%)	**12,868**
If absentee rate is 10 %	-5,631
Students unaccounted for	**7,237**

Sources: DCPS Official Membership, October 1, 1996
District of Columbia Public Schools, School by School Results for Spring 1997 on the Stanford 9 Achievement Test

Prepared by the 21st Century School Fund

Mr. DAVIS. All right. Mr. Lawson.

Mr. LAWSON. Mr. Chairman, first of all, thank you for allowing me the opportunity to be here this morning. I do have a brief opening statement, but for the sake of time, if the chairman would permit, I will enter it for the record and be available for any questions that you may have.

Mr. DAVIS. Thank you very much, and your statement is a part of the record.

[The prepared statement of Mr. Lawson follows:]

Good morning Mr. Chairman. My name is William R. Lawson and I am the Assistant Regional Administrator for the Public Buildings Service of the National Capital Region at the General Services Administration (GSA). Thank you for inviting me here today to provide testimony that will assist with the review and evaluation of the activities associated with the completion of the repairs of the District of Columbia Public Schools (DCPS) facilities.

Shortly after General Charles Williams' appointment, we met with him and his staff to establish a collaborative understanding of GSA's potential support of the DCPS Capital Improvements Program. We agreed that DC would pay GSA to provide temporary planning, contractual and other support services while DCPS mobilized its operation to ultimately handle the program on their own. The urgent situation they asked us to deal with initially was to contract on their behalf so that immediate roof repairs to five schools and replace boilers at six others.

Ultimately, GSA contracted for and supervised the work for 9 roof replacements, 6 boiler replacements, 4 boiler replacement designs, one gymnasium renovation that included a roof replacement as well, and two structural repair projects. We completed this work using our existing Federal contracts that were already in place and had been awarded in accordance with the competitive procurement process. The use of existing contracts enabled us to expedite the process. By using these contracts, we were assured reasonable and competitive prices. The projects were also completed within agreed upon deadlines. We are pleased that we were able to contribute to the timely completion of needed building repairs to the schools of the District of Columbia.

Thank you Mr. Chairman. I will be happy to respond to any questions the Committee may have.

Mr. DAVIS. Mr. Miller.

Mr. MILLER. Thank you. Good morning. Thank you for the opportunity to speak today. My name is Jonathan Miller. I am an associate vice president with the architectural and engineering firm of Daniel, Mann, Johnson & Mendenhall, and I am a registered architect in both Washington, DC, and Maryland.

I am appearing before this panel in my capacity today as project manager for the D.C. public schools projects on which we have worked. My 20 years of design and construction experience in the Washington, DC, metropolitan area have allowed me to become well versed in Federal sector projects, including the General Services Administration, Department of Treasury and the FBI. I recently served as lead architect for design management for the new terminal at National Airport.

Daniel, Mann, Johnson & Mendenhall, or DMJM, for sake of brevity, is a 52-year-old multidisciplined professional services firm. We have 1,400 employees in 20 offices across the world. We provide architecture, engineering and construction management services to a range of public and private sector clients, and we have been serving the metropolitan Washington community for 43 years. We are currently providing program management services for the Pentagon, the Department of Labor Job Corps centers located across the Nation, both National and Dulles airports, and the Federal Emergency Management Agency. Unlike these projects, we are not providing comprehensive program management or construction management services to D.C. Public Schools. Rather, as I will explain more fully in a moment, we provide technical advice and field representation on numerous tasks.

Our relationship with the D.C. public schools project actually grew out of an existing relationship with the GSA. DMJM was awarded an indefinite delivery contract from GSA in 1994, having competed in a qualifications-based selection. When D.C. Public Schools first requested assistance from GSA, we were among several firms under contract to GSA, all of whom were made available to D.C. Public Schools. DMJM participated in several early tasks, which were ultimately for the benefit of the D.C. public schools, but which were carried out under GSA direction and guidance.

In early summer 1997, GSA delegated tasking authority directly to D.C. Public Schools, which enabled D.C. schools to utilize the GSA contract. As the tasks became more challenging, with shorter and shorter timeframes, some firms were unable or unwilling to respond to D.C. public schools' emergency needs. DMJM tried to remain responsive to the needs throughout the remainder of the 1997 year. We actually provided a number of different services for D.C. schools during 1997. Our first involvement with the roof replacement program was two tasks performed directly for GSA involving the design of new roofs and related work for two schools. We also provided services during construction for these schools throughout the summer, including review of shop drawings and periodic field observation.

In June, D.C. schools authorized DMJM, through the GSA contract, to provide the scopes of work for roof replacements at 15 schools. D.C. schools required these scopes within 3 weeks, in order to allow sufficient time for procurement and construction. DMJM deployed several teams working evenings and weekends to accomplish this task.

D.C. Public Schools planned to use these scopes of work as part of a request for proposals package to procure a design-build contract via competitive bidding. Design-build contracts utilize a single entity to provide both design and construction services, and can be employed to shorten the overall duration of a construction project. The scopes we prepared, therefore, were not a complete design, but described the design intent and formed the technical component of the request for proposal package.

DMJM sought to define two key issues for each roof's scope: One, the location and extent of the required work; and, two, the quality level of the installed products. In developing the scopes, we visually surveyed each roof, reviewing and photographing existing conditions. For each school we prepared a diagrammatic roof plan and narrative of the required work, a technical specification establishing quality standards for each component and a cost estimate.

Just as we were completing these first 15, D.C. Public Schools requested DMJM to prepare an additional 33 scopes. We again provided the services within a 3-week timeframe. The challenge for the remainder of the summer was now clear, replacing approximately 50 roofs in less than 2 months.

D.C. Public Schools asked DMJM to assist them in monitoring the construction to verify that construction was in accordance with the requirements of the design-build contract. We staffed the project with over 30 people to accomplish the work, many of whom worked 7 days a week routinely for 2 months. Night work was also common, particularly because contractors needed cooler temperatures to effectively remove old roofing membranes.

While D.C. Public Schools administered the contractual aspect, such as directing the contractor and negotiating change orders, DMJM augmented the D.C. Public Schools field staff by reviewing proposed design details, providing daily reports on each roof and monitoring progress.

During the summer, we were also asked by GSA to provide traditional construction management services on three additional D.C. schools. Unlike the tasks performed for D.C. Public Schools, DMJM provided a more traditional range of management services on these schools, including review of the construction progress with the contractor, issuing field directives and making recommendations on contractual issues.

We believe our contribution in 1997 has helped to make a difficult crisis-laden situation better than it otherwise might have been. Now that emergencies have subsided somewhat, much important work remains for D.C. Public Schools to undertake. We look forward to any future contributions we can make toward bringing D.C. Public Schools' facilities up to first-class condition.

With that, I would be happy to answer any questions the committee may have.

Mr. DAVIS. Thank you very much.

[The prepared statement of Mr. Miller follows:]

PREPARED TESTIMONY OF JONATHAN MILLER, AIA

Associate Vice President -- Daniel, Mann, Johnson & Mendenhall
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
January 23, 1998

Good Morning. My name is Jonathan Miller. I am an Associate Vice President with the architectural and engineering firm of Daniel, Mann, Johnson, & Mendenhall (DMJM), and am a registered architect in Washington, DC and Maryland. I am appearing before this panel in my capacity as the Project Manager for the DC Public Schools project. My 20 years of design and construction experience in the Washington, DC metropolitan area have allowed me to become well versed in Federal sector projects, including projects for GSA, Department of the Treasury and the FBI. I recently served as the Lead Architect for design management for the New Terminal at National Airport.

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DMJM's relationship with the DC Public Schools project actually grew out of an existing relationship with the General Services Administration (GSA). DMJM was awarded an indefinite delivery contract from the GSA in 1994, having competed in a qualifications-based selection. That contract enabled authorization of Task Orders, utilizing pre-negotiated hourly rates. When DC Public Schools first requested assistance from GSA, we were among several firms under contract to GSA, all of whom were made available to DC Public Schools. DMJM participated in several early tasks which were ultimately for the benefit of DC Public Schools, but which were carried out under GSA direction and guidance. In early summer 1997, GSA delegated tasking authority directly to DC Public Schools, enabling DC Public Schools to utilize the GSA contract. As the tasks became more challenging, with shorter and shorter time frames, some firms were unable or unwilling to respond to DC Public Schools's emergency needs. DMJM tried to remain responsive to the needs of DC Public Schools throughout the remainder of the 1997 year.

We actually provided a number of different services for DC Public Schools during 1997. Our first involvement with the roof replacement program was two tasks performed directly for GSA, involving design of new roofs and related work for two schools. We also provided services during construction for these schools throughout the summer, including review of shop drawings, and periodic field observation.

In June, DC Public Schools authorized DMJM, through the GSA contract, to provide Scopes of Work for roof replacements at 15 schools. DC Public Schools required these scopes within three weeks, in order to allow sufficient time for procurement and construction. DMJM deployed several teams, working evenings and weekends to accomplish the task.

EST COPY AVAILABLE

DC Public Schools planned to use these Scopes of Work as a part of a Request for Proposal (RFP) package, to procure a design-build contract, via competitive bidding. Design-build contracts utilize a single entity to provide both design and construction services and can be employed to shorten the overall duration of a construction project. The Scopes, therefore, were not a complete design, but described the design intent, and formed the technical component of the RFP. DMJM sought to define two key items for each roof Scope:

1. the location and extent of the required work; and
2. the quality level of the installed products.

In developing the Scopes, DMJM visually surveyed each roof, reviewing and photographing existing conditions. For each school, we prepared a diagrammatic roof plan, a narrative of the required work, a technical specification establishing quality standards for each component, and a cost estimate.

Just as we were completing the first 15 Scopes, DC Public Schools requested DMJM to prepare an additional 33 Scopes. We again provided these services within a three week time frame. The challenge for the remainder of the summer was now clear - replacing approximately 50 roofs in less than two months.

DC Public Schools asked DMJM to assist them in monitoring the construction, to verify that construction was in accordance with the requirements of the design-build contract. We staffed the project with over 30 people to accomplish the work, many of whom worked 7 days per week routinely for the next two months. Night work was also common, particularly because contractors needed cooler temperatures to effectively remove old roofing membranes. While DC Public Schools administered the contractual aspects, such as directing the Contractor and negotiating Change

Orders, DMJM augmented the DC Public Schools field staff, by reviewing proposed design details, providing daily reports on each roof, and monitoring progress.

During the summer, we were also asked by GSA to provide traditional construction management services on three additional DC schools. Unlike the tasks performed for DC Public Schools, DMJM provided a more traditional range of management services on these schools, including review of the construction progress with the contractor, issuing field directives, and making recommendations on contractual issues, such as Change Orders, and requests for payment.

We believe our contribution in 1997 has helped to make a difficult, crises-laden situation better than it might have otherwise been. Now that emergencies have subsided somewhat, much important work remains for DC Public Schools to undertake. We look forward to any future contributions we can make towards bringing DC Public Schools facilities up to first-class condition.

Attached is a Stewardship Report we prepared earlier this month, reviewing the events of the past year, and addressing issues of cost and quality on the overall re-roofing effort. Also attached is an illustrative sketch, demonstrating some of the complexities typically encountered in renovating older school buildings, the type that comprise much of the DC Public Schools inventory.

I would be happy to answer any questions the Committee may have at this time.

50 YEARS

January 5, 1998

Charles E. Williams, MG USA (Ret.)
Chief Operating Officer
Director of Facilities
District of Columbia Public Schools
415 12th Street, NW, Suite 903
Washington, DC 20004

Dear General Williams:

Daniel, Mann, Johnson, & Mendenhall (DMJM) regularly reviews our work on noteworthy projects to provide what we call a Stewardship Report. We felt that the beginning of 1998 would be an appropriate time to review the events of the past year and summarize our efforts on behalf of the District of Columbia Public Schools (DCPS). We are exceptionally proud of the legacy of work completed in 1997 on behalf of DCPS and trust you share our sense of achievement.

We began work in February with the prioritization study — a three-week compilation and assessment of existing facilities documentation for all 165 schools including a walk-through sampling of 16 schools. As we worked, we created a data base to identify needs, set priorities, and establish budgets for the deficiencies throughout the school system, which numbered in the thousands.

Roof repairs emerged as the single most important deficiency requiring immediate attention. We developed a series of Scopes of Work that outlined the performance requirements and broad construction methods required to protect 48 of the most critically damaged schools from further deterioration from leaky or otherwise seriously damaged roofs. These Scopes of Work, including specifications, formed the technical components of the design/build contracts executed between DCPS and the numerous General Contractors involved in this past summer's reroofing efforts. Eventually the roofing program was expanded from the 48 to encompass 56 schools. Once the roof repairs were underway, we provided Construction Administration services, including a daily presence, seven days a week, for each of the 56 roofs.

Although the term "reroofing" is used most frequently to describe the work, it is partially a misnomer. Certainly the work that was completed in nine weeks by DCPS focused on protection of the building envelope, primarily the roofs. However, we found extensive related damage, often resulting from the deteriorated roofs, that required additional repairs far beyond the initial scope of the roofing replacement. Substantial flashing replacement, repointing of masonry, and overall stabilization of adjacent parapets, for example, contributed to a program that grew in size, even as best efforts were made to control costs.

We believe it is fair to say, however, that the approach taken by DCPS, requiring the contractor to attend to broader protection of the schools, resulted in long-term savings. The building components that were repaired should require no more than normal maintenance during their useful 20-year life. Had DCPS chosen a more literal approach, i.e., the specific replacement of selected roof areas and no more, then much of the investment in the roofs would have diminished as adjacent damage would have continued to fuel the deterioration of the recent repairs.

Much public discussion occurred during the summer months, comparing the work to maintenance efforts in surrounding counties and questioning whether DCPS paid unacceptable premiums for procuring such a large amount of work in such a short period of time.

The discussions failed to recognize, however, that the DCPS program was not an ordinary, ongoing maintenance reroofing program; it was an emergency repair program. As such, it is not comparable to reroofing programs (or costs) experienced in the surrounding counties. In addition, the discussions overlooked a truly long-term benefit to DCPS: the quality of the constructed work.

We can jointly attest that the contractors who completed the roofing efforts under extreme time constraints met the quality requirements set forth in the Scopes of Work, and the roofing contractor community itself has acknowledged the quality of the installed roofs.

Finally, the diversity of roof types encountered across the city, and even on a single school, contributed to the complexity of the repairs and required the use of multiple roofing specialists. Built-up roofs require different installation skills than clay tile roofs; sheet membrane systems differ from shingle systems; and metal roofing is yet altogether different.

The contractors were required to mobilize quickly, finalize design, secure necessary permits, secure the roofing and building materials, and determine a staging and phasing plan, even as they were demolishing the existing roofs, sometimes finding unforeseen deterioration.

The overall quality and the simple act of completion of the roofs seem to have been lost in the discussions of cost. Cost control clearly was an issue, though. DCPS was required to competitively bid work that by its nature carried premium costs: Night and weekend work, occasional loss or theft of materials, unforeseen conditions, and aging buildings all contributed to the "above norm" costs that were noted in the bids. Again, what has been overlooked by the media and other observers who seek to compare DCPS with surrounding counties is that the inventory of DCPS buildings is from a different era, a time when the simplicity of modern construction and generic roofing systems found on the schools built from the 1960s to 1980s did not exist. Thus, the contractors were forced to account for out-of-the-ordinary conditions.

In addition to school facilities made safe for students, the emergency repair program generated an additional benefit that will serve DCPS and the District into the future. DCPS developed and put in place a *process* for managing the work even as work *progressed*, a challenge under normal circumstances. That DCPS accomplished not only the construction program, but the equally difficult task of adapting its management structure to address an emergency program, and subsequently ongoing facilities repairs, deserves note. Consistency of inspections, cooperative and reasoned assistance from the building code officials, and a single-minded focus on the need to build quality into the work, all helped to achieve not only the reroofing program, but also the management infrastructure necessary to address the next construction program.

In this past year in Washington, many noteworthy building programs have come to completion: The New Terminal at National Airport and the Expansion of Dulles, the MCI Arena, Jack Kent Cooke Stadium, and the Ronald Reagan Building.Given the schools' impact on the future of the City's residents, children and adults alike, we would count the DC Public Schools among these programs. Each had a different budget and schedule; each was complex in its own way.

DMJM plays a key role on some of the largest construction programs ongoing in the Washington metropolitan area. We are proud to have contributed to this program and your success in accomplishing what few organizations have ever achieved: Emergency repairs delivered well, under extreme scrutiny and time constraints.

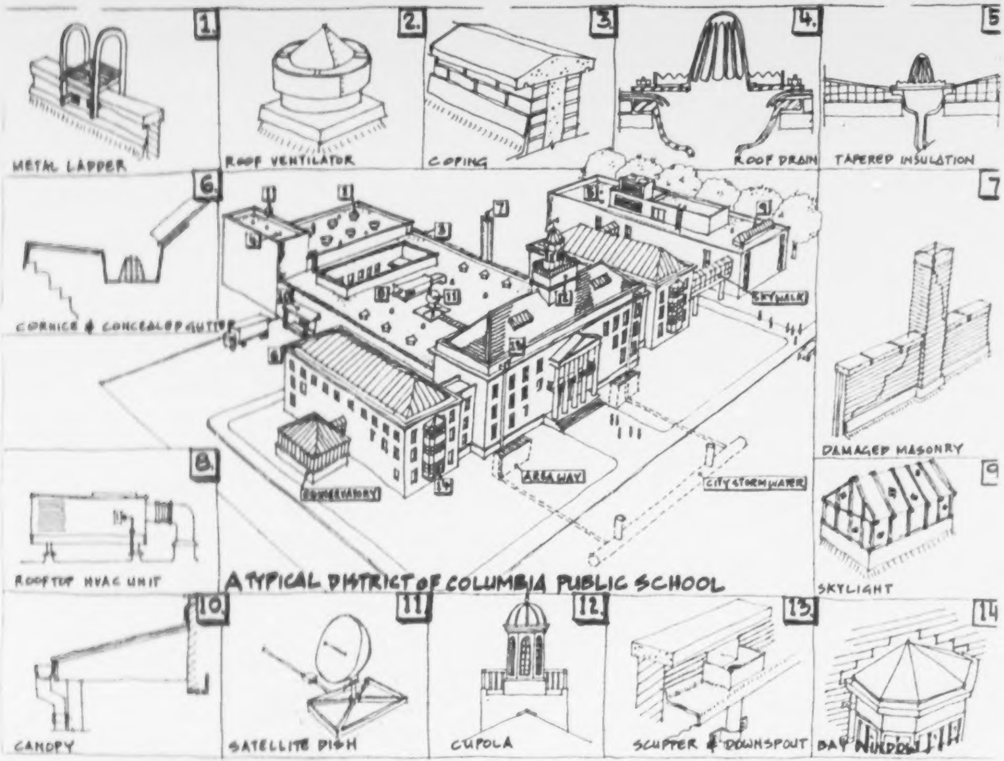
Congratulations.

Sincerely,

DANIEL, MANN, JOHNSON, & MENDENHALL

William D. Hooper, Jr., AIA
Associate Vice President /
Director of Operations

cc Andrew Brimmer, Chairman, DC Financial Responsibility and Management Assistance Authority
Bruce McLaury, Chairman, DC Public Schools Board of Trustees
General Julius Becton, Chief Executive Officer, DC Public Schools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METAL LADDER
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DAMAGED MASONRY
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ROOFTOP HVAC UNIT
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SKYLIGHT
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CANOPY
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SATELLITE DISH
12.
CUPOLA
13.
SCUPPER & DOWNSPOUT
14
BAY WINDOW
SKYWALK
CONSERVATORY
AREAWAY
CITY STORMWATER

A TYPICAL DISTRICT OF COLUMBIA PUBLIC SCHOOL

Mr. DAVIS. Let me get to the questions.

Ms. Filardo, let me ask a couple questions. Do you feel that the commitment of resources by the various governing authorities which have jurisdiction regarding the District of Columbia Public Schools, is adequate to ensure an effective capital group and programs?

Ms. FILARDO. There is some discussion about what is the number for a capital program, and the alternative plan that we developed, we had it at close to a billion. Certainly we don't now have on the horizon the kind of revenue that we need to support that program.

In addition, because of the up-and-down nature of funding for capital—that is OK, they don't listen. Because of the up-and-down nature of the funding for capital projects, it has really been a problem. We haven't seen the amounts of money and we haven't seen the stability that we need.

Mr. DAVIS. Do you have any real actual evidence that the public schools paid too much for the 1997 facility repair program, particularly in view of the extraordinary conditions under which the program was both developed and implemented, and considering the requirement to remediate fire code violations?

Ms. FILARDO. It is hard to know how much emergency justifies how much expenditure. I think that there are some real problems with the fact that roofs were replaced that didn't need to be replaced. We have heard that from contractors who replaced roofs, as well as seeing that from the capital expenditures from fiscal year 1987 to 1990 and 1990 to 1995.

Mr. DAVIS. We are going to ask General Williams about that. Do you have any site survey engineering or any architectural evidence that any of the roofs replaced as part of the facilities repair program in 1997, or any other repair, were not necessary, or were duplicative?

Ms. FILARDO. Again, based on the report, and it is all D.C. Public School data on roofs that have been entirely replaced in 1987, 1988, 1989, and in fact this information is available through their long-range capital plan, their appendices, you can identify those.

Mr. DAVIS. Let me ask Mr. Miller a couple questions. In your judgment, what was the impact, if any, that the activities related to the court and Judge Christian have on the scope, the time lines, the cost and delivery of the projects?

Mr. MILLER. I am not sure that I can address the impact from Judge Christian, but I can certainly address the impact of the emergency environment under which the program was carried out. I believe that it certainly resulted in some premium costs. I believe there are two categories of premium costs.

Mr. DAVIS. Well, let me ask you this. The judge's decision that you could not open the schools until you got these replaced put an added pressure, did it not, in terms of getting things done in a much quicker period of time than you might ordinarily have done if the kids could have stayed in school? Wouldn't that have increased the cost in perhaps a significant manner?

Mr. MILLER. Yes, the construction period and the design period and I gather the procurement period were all shortened considerably.

Mr. DAVIS. I am not asking for a dollar figure. It just seemed to me that when the decision came down, you resolved the issue quicker, but it was going to take more resources out of the system to try to do it, particularly because you were shuffling kids back and forth. Also you had to do this in a much faster period of time, with increased expenses of busing.

Mr. MILLER. There are some perhaps partially hidden costs in condensing the construction period as well.

Mr. DAVIS. I bet they are not hidden. I mean, I am not asking you, but I think you are probably justified that it probably ran in the millions of dollars.

Mr. MILLER. I am not prepared to quantify it, but it is certainly significant.

Mr. DAVIS. OK. Can you give me your professional assessment of the repair program implemented by the D.C. Public School System.

Mr. MILLER. Yes. I would first say that I consider it, at least in terms of strictly accomplishing the work in the amount of time given, a remarkable achievement.

I believe that perhaps in the inspection of cost and schedule issues, a very important issue may be overlooked or lost in the fray, which is that of quality. We feel that the D.C. schools' roofs which were replaced were replaced with good quality construction. And the way in which we helped to accomplish that was to provide a daily presence on each roof to ascertain that the installed work conformed with the technical requirements of the contract. Warranties, both a 2-year labor and material warranty and a 20-year warranty from the manufacturer, were required as part of the technical specifications, and both of those helped to ensure that D.C. Schools receive a quality product. There was no recovering of roofs done this summer; there was no Band-aiding or patching. From a life-cycle cost perspective, the best investment of public funds, we believe that stripping these roofs down to the substrate and replacing them was merited and provided the best level of quality for D.C. Schools.

Mr. DAVIS. So if there is a criticism here, it is not the fact they got the job done in a timely manner that is remarkable, but there are quality controls so that these issues are not revisited. In your judgment, what the school system achieved there was extraordinary; is that fair to say?

Mr. MILLER. Yes.

Mr. DAVIS. The extent of the repairs that were necessary to eliminate the fire code violations in the public school system, can you give us a view of that?

Mr. MILLER. The extent of repairs was—at least on the roofs that DMJM was involved with—based on our condition surveys. We really were not party to the specific fire code violations. We didn't see them as they were either cited or recorded.

But let me take this opportunity, if I might, to talk about the condition survey process. That involved a detailed survey, field survey, and some sampling, both for hazardous materials, such as asbestos, and some roof coring.

In response to some concerns that roofs less than 10 years old were replaced, let me give you two quick anecdotes. On Randle Highlands Elementary, the roof was 7 years old, according to records. It was an EPDM-type roof. We suspected that there might be some problems. There was evidence of leaking. We took a core sample, which removes a cylindrical portion of not only the roof, but the insulation below it. When we removed the core sample, the hole that was left behind immediately filled up with water. That roof was 7 years old.

Mr. DAVIS. Were there any quality controls or warranties on that from the construction done 7 years ago?

Mr. MILLER. We were not able to find those records to establish that.

Mr. DAVIS. OK.

Mr. MILLER. The second one, if I could quickly go on, was Park View School, which also had a fairly new roof. The building custodian told our staff on the way up, when we made the first visit, there shouldn't be any work required up here, since the roof had been worked on in the last couple of years. Our staff got up through the roof scupper, and it appeared in the area they were looking at like a new roof, but as soon as they walked over that area and onto the next one, they found a very old roof. So we weren't sure what the record showed about Park View, but at least the people living below this believed they had a new roof, when, in fact, they did not.

Mr. DAVIS. Thank you very much.

Mr. Lawson, let me ask you a few questions. You talked on your own knowledge of the conditions of the District of Columbia Public School facilities. Do you have an opinion as to what led to these conditions? Does a fundamental lack of routine maintenance on facilities affect the useful life as well as the old cost to effectuate the repairs; is that part of the problem here?

Mr. LAWSON. No. I think in our work on the schools, that is what we discovered. On the roofs and the boiler projects that we worked on, as well as some that we were involved in in reviewing surveys and assessments that were previously done for the school system, many of the roofs had exceeded their life expectancy with little or no apparent maintenance on them. Many of the boilers apparently had little, if any, preventive maintenance, which could also accelerate the deterioration and shorten the life expectancy. So generally, I think that we could summarize the condition of the roofs and boilers that we were involved in and as well as those that we provide technical support for were conditions that resulted from years of either disrepair or lack of maintenance.

Mr. DAVIS. General Williams will have a chance to answer this later, but it is a question raised by Mrs. Filardo. It seems when you start comparing roofs here to roofs in other jurisdictions and cost, that you had to do more extensive work in these cases, the recordkeeping wasn't good, there weren't warranties, and that could account for at least some of the cost differentiation between what you might encounter in other jurisdictions.

Mr. LAWSON. Well, yes, there are a couple factors you have to look at in looking at the cost. One you have heard of earlier, the time to deliver a project or roof work. Roof work is very labor-intensive, it is not typical construction where you can accelerate the time by sequencing work concurrently, erecting work concurrently.

Mr. DAVIS. But the procurement cycle is an important piece of that?

Mr. LAWSON. Certainly that, to get the highly qualified contractor, but particularly the work has to be done in such a sequence, at a certain time, with heavy labor, to get it done. If you are going to speed up a project, there are not many options in roof work to speed it up, other than to do double time, triple time, that kind of shift, which you will pay overtime. You will pay extra costs for accelerating that work.

The other factor that the long-term deterioration influences are what you would really find in unforeseen conditions. If you were properly maintaining a roof, one could replace it or repair it with minimum, let's say, damage or minimum improvement to the structure or the membrane that is below a roof. If it deteriorates, you look at the probability of damage to the insulation, to the basic surfaces and to the structure.

Mr. DAVIS. So you are repairing more than the roof in this case?

Mr. LAWSON. Yes, sir, and in some cases, we found that condition.

Mr. DAVIS. Do you think that GSA or any other organization could have more effectively, efficiently or expeditiously carried out such a program as the schools implemented in 1997 in that respect——

Mr. LAWSON. The simple answer——

Mr. DAVIS [continuing]. And at a lower cost?

Mr. LAWSON. Let me put that at a point in time when we worked with the school system to help identify and prioritize the emergency work, and the timeframe or turnaround time that was mandated to get that work done. I don't think that, frankly, GSA could have done a better job than the D.C. Schools did on their own in carrying out the, I think, 43 roof projects in about a 60-day turnaround time.

Mr. DAVIS. How about the cost?

Mr. LAWSON. I don't know the detailed costs of their projects to really fully advise you intelligently on that. I could compare it to some of our cost experiences, and the general numbers that I saw in the audit report that refer to the possible markup of 30 percent are comparable to the kind of premiums that I think we have experienced or that we have seen in the work that we did. On average, our costs, I think, were around between $11 and $12 a square foot for the work we did for the schools. Industry standards are around $8 to $10 a square foot, so that is compared.

Mr. DAVIS. Let me ask each of the other witnesses if they have any comment, any other organizations or a different way of doing it cheaper and getting the same quality.

Ms. FILARDO. I just want to comment that GSA managed the roofing project at Nalle Elementary School, and that was done for $266,000, and it averaged out to $8.12 a square foot. And that was not done as part of the emergency program, but it does indicate that we have the capacity to do roofs at reasonable prices when not bidding in July for work to be done by September 1st.

Mr. DAVIS. I mean, I think you would agree, that is because it was part of a planned process, it was not an emergency, you got it at the right end of the procurement cycle.

Ms. FILARDO. There was already design work. It was not a design build.

Mr. LAWSON. And I would agree with that.

Mr. DAVIS. Mr. Miller, do you have any comment on that?

Mr. MILLER. I would just like to elaborate quickly on the factors that contribute to the cost, other than the shortened timeframes. Labor availability is another impact from the shortened timeframe.

Mr. DAVIS. That is the point in the procurement cycle you are bidding this, and if you bid it in the middle of a work construction cycle like the summer, where bids are already out, you have to go find the workers in addition to the overtime, and that makes it even more difficult.

Mr. MILLER. You may need to reach further away from your home jurisdiction. The design-build method of putting these projects together, plus the bonding requirements, plus some of the ways in which they were packaged may have necessitated using general contractors rather than roofing specialty contractors. I don't think there was any other option, but that probably drove a small premium cost in terms of those being typically larger firms with somewhat larger overhead.

Material availability became a problem in terms of reaching far away from this jurisdiction in order to get materials for the program. Unforeseen conditions was another issue. The building stock is simply not what it is in Prince George's or Fairfax or Montgomery County, where there are lots of schools built in the 1960's and 1970's; with fairly modern, straightforward, simple roofs.

These are old buildings with lots of hidden and unforeseen conditions. The roofs are quite a bit older, and the hidden damage was more severe. There is significant nonroof work as a result, and I think that has to be looked at very carefully when looking at any kind of cost figures because nonroof costs are easily wrapped in, and consequently overlooked.

Mr. DAVIS. What about insurance, theft, those kinds of things?

Mr. MILLER. There is a security issue certainly. Our personnel were subjected to some criminal incidents. I know some of the contractors were as well. And I think contractors can see that, feel that, and build it into their costs.

Mr. DAVIS. Were you acquainted with the windows issue that was raised?

I can understand why the roof situation would be more expensive than maybe some of the other jurisdictions. I can understand those factors. I think you have done a good job in representing it. Were you acquainted with the windows issue, why that would be so significantly more expensive?

Mr. MILLER. DMJM has been working with D.C. schools in the past few months to finalize those window packages and make them ready for procurement. I don't have firsthand knowledge at this moment about the budgeted costs, but I can certainly research that and get back to the committee, if that's of interest.

Mr. DAVIS. When you get that, we would like to see that. If you can get that over to us, that would be helpful, because I think you raise a good point in comparison. We need to at least understand if the numbers don't jive with what has happened previously in the city or in suburban jurisdictions.

One thing that is pointed out here, though, is that you cannot take for granted, in dealing with the city, that the job was completed, a good job was done and warranties were established. And it looks like that didn't always happen in the past. Those are things that you might take for granted in other jurisdictions but you can't here.

At a minimum, you have to give the school system credit for making sure that those kinds of problems are not revisited and it wasn't just patching it up, it was substantive work. You can lose sight of what that cost of wages can be if that had not been done correctly.

Was the availability of or the access to funding a factor in the ultimate goal of GSA, or GSA's involvement in the process, Mr. Lawson?

Mr. LAWSON. Well, initially we worked out an agreement to carry out the projects between the schools, the Control Board, ourselves. We did end up with a funding and a funding authorization process that was cumbersome to enable us to manage projects, let's say, as freely as we would like to have.

On occasion, we did experience delays in which contractor payments and a few procurements to make up schedules, and we did have to accelerate—try to accelerate the construction projects. And it was, bottom line, a challenge to carry out the projects and to meet the objectives that we had agreed to with the school with the kinds of processes that we had in place.

I believe it was—back to your question, it was a factor in the spring, when we were helping to prioritize what became the emergency work and the 40-plus roofs, when we sat down with the schools and gave them our best plan and schedule under the circumstances to deliver the work. And, frankly, the scheduling that we could commit to just could not fit within the timeframes that the school system was under.

And we mutually agreed that—and there was another factor that, in the time that we were doing work for the schools, they were able to mobilize their own resources to manage the program. And that was the ultimate goal that I think we were all under, and that is for the GSA to help the school system until they could carry out their own program.

But at that point, General Williams and our staff and his staff agreed that it would be in their best interest that they manage their own program simply because we could not commit to the timeframes that they were under.

Mr. DAVIS. The way I understand the funding—and we will let our future witnesses testify concerning the funding—is you had about $11,500,000 from carryover funds. You had some Connie Lee and Sally Mae money kick in, from a settlement of about $18,250,000 million that was not available until April.

Mr. LAWSON. Correct.

Mr. DAVIS. You couldn't do anything with that until you were sure it was going to happen. And then it was July before you got the proceeds from the bond sales. So that would impact the cashflow and planning.

Mr. LAWSON. I believe that's the timeframe, but I'm personally——

Mr. **Davis**. That is my understanding.

Also, on September 23rd—this is my last question for the panel. Then I will yield to Ms. Norton.

On September 23, 1997, you forwarded a letter to General Williams offering favorable comments relative to the public school repair effort in 1997. Based on what you know now, do you continue to have the same opinion about the school system's school repair program, and would you share with the subcommittee your candid assessment of the challenge, the process, and the outcome?

Mr. **Lawson**. Yes. Yes, Mr. Chairman, I still feel the same way that I did in that letter. Just very simply, I thought it was extraordinary that they were able to not just mobilize but to take on a task of over 40 roof projects and get them done in literally a 60-day turnaround time. That's the bottom line.

Mr. **Davis**. And with good quality.

Mr. **Lawson**. With good quality, that I'm aware of. We weren't directly involved in the inspection of them, but from what I understand, the quality is certainly good quality.

That's what it boiled down to. And it relates back to my earlier point that I feel we couldn't get it done in that turnaround time, and, frankly, I was skeptical as to whether they could do it themselves, and they did. So I thought it was worthwhile to let them know that.

Mr. **Davis**. I think, given the fact that you go into a school, thinking you have a new roof but it is not a new roof at all, that you would rather be up here talking about, did we spend few more dollars than we needed to than we didn't get the job done and we may need to revisit this thing, which has all kinds of other implications.

Although you testified that every job was done well, we have warranties in place that should protect the city and evidently that was not done in the past, Mr. Miller, at least in the case of the one school you cited where, if it was done, we could not find any record of any warranties being in place.

Mr. **Miller**. We could not find the records.

Mr. **Davis**. I appreciate your putting this in perspective for us, and I now yield to my colleague, Ms. Norton.

Ms. **Norton**. Thank you, Mr. Chairman.

Of course, if the proposition is stated whether or not 40 roofs could be accomplished in 60 days, the answer is ordained. I think everybody gives considerable credit to the school system for doing that.

I was extremely perturbed at the judge, who I thought continued to get plaudits and, in my judgment, didn't act like a judge, who should try to get these people to the table and get this things worked out. While the school system was trying its best to get in there, I think the legal system worked to our detriment. It was an unintended effect, and it was an outrageous effect, because everybody knew that something had to be done quickly, and judges routinely bring in parties when there are matters at stake that were not nearly as urgent as this.

So I think people gave the school system credit for trying to go ahead under those circumstance. So if that is all we are talking about, is how fast can somebody do 40 roofs in 60 days, then, of course, what we have is a heroic effort that deserves a lot of praise, and they will get that praise from me. I don't think you can get people coming and then get them going to say, hey, get it done in 60 days, and, by the way, you have spent too much money getting it done in 60 days. That strikes me as—that has a taint of unfairness to it.

The real question is, why did 40 roofs have to be done in 60 days, not whether or not, if you had 60 days, how many roofs could you accomplish in 60 days. And the question I have for you is a tougher question, which is why, Mr. Miller, and why, Mr. Lawson, was, in your judgment, this work compressed to 60 days so that we are here talking about a proposition that really shouldn't have been on the table in the first place?

Why was not this work, in your judgment—you were there from the beginning—why was this work not done in the longer timeframe, the more reasonable timeframe that would conceivably not have resulted in the payment of premiums and in the other matters that you have justifiably raised in making your evaluation?

Mr. LAWSON. Do you want to do this, John?

Mr. MILLER. You go first.

Mr. LAWSON. I will try to answer it. I can give you really a limited answer, but I think I would have to defer to the D.C. public schools to give you a more intelligent answer, because I don't think I'm directly privy to all the factors leading up to authorizing and executing the projects.

Ms. NORTON. When did you begin your work, Mr. Lawson?

Mr. LAWSON. When did I begin it? We started work for the school a year or so in advance—prior to the emergency.

Ms. NORTON. Was your work finished before school was scheduled to open?

Mr. LAWSON. The work we did on the phases, yes, we did, I believe, for the most part. I'm not absolutely sure of the schedules, but I think they would have finished before.

Ms. NORTON. In other words, you were assigned a specific number of schools and your work was done before the scheduled opening of schools?

Mr. LAWSON. Yes.

Ms. NORTON. Mr. Miller, why was the work not begun early enough so that there was not a last-minute finish-line approach that caused a premium and other problems to arise?

Mr. LAWSON. Could I interject just one point, Mrs. Norton, that I think would help? I do generally understand that it was a funding and budgeting process that may have delayed some of the starts of the work, but I don't know the details of that problem or that process.

But I believe from when we were authorized to work and as work came to us, it was authorized as soon as—as I understand it from the school system—as soon as work was funded. And my understanding is that there was perhaps a delay in the funding process. I don't know any more than that, and I think the school system would have to answer any more detail than that.

Ms. NORTON. Mr. Miller, you were there.

Mr. MILLER. That's my understanding as well, though I don't have firsthand knowledge of the funding availability. But from what I read in the press and conversations I had with D.C. schools, that they did not have funds in place, and we simply took the tasks when they gave them to us, and that left plenty on our plate.

I might just add quickly that we initially surveyed 48 schools in 2 groups, and not all 48 of those schools were worked on during the summer. We did find schools where we recommended that only minor repair work be done. That was generally done by in-house forces. Those were not part of the 1997 summer programming.

So why 40? Why 40 and why compressed I can't really address, but I can say we were careful to make sure the ones that did receive work needed it.

Ms. NORTON. Ms. Filardo, do you have any view on this?

Ms. FILARDO. Yes, I do. Part of what happened before the new administration came in under facilities, is that there had been no capital money and the capital staff had been greatly reduced. There had been a RIF of about 21 people before General Williams came in.

Also, one of the first things he did was terminate the Service Master contract. Service Master had been taking over more and more management responsibility. They were very involved in the roof door replacements, and they had been involved in the management of level two management, which involved a lot of prior formulated repairs.

So within 2 weeks of the new administration there was no Service Master; there had just been a staff cut right before Franklin Smith left; there was virtually no capacity in the District of Columbia public schools to manage a capital program; and so there just wasn't the time to prepare the scopes of work, the analysis, the information. It just wasn't done.

My sense is that the bids went out in July because it just took that long to get the work done, and it was not the funding, because they didn't need the funding until they had——

Ms. NORTON. Whether we are talking funding or the deeper problems in the delivery system, as it were, that you describe, Ms. Filardo, I would like your expert opinion, Mr. Lawson and Mr. Miller, confronted with these problems. After all, General Becton and General Williams were confronted with these problems; they weren't problems of their making.

Confronted with these problems, facing a late start in doing the roofs, would not the better professional approach have been to reschedule the number of roofs that could be done within the allotted timeframe rather than press the timeframe, given the matters outside of their control that they found?

Ms. FILARDO. Well, I sent a memo to Bruce MacLaury on August 9th of this summer, after it was clear that the school system would be not able to complete roofs in a timely fashion to open school. And one of the things I would like to say is, we talked about schools being closed before; they were closed for 2 days. We were looking at weeks. I mean, we're not in the same realm in terms of the cost educationally to the District of the fire code suit before, but it was not unfamiliar.

And in this memo, I suggested that there were lots of reasons that we had these problems: They were old, and they were not going to go away quickly. But in the meantime, what they needed to do was to revise their plan, that they could do some repairs, they could do the stabilization, which doesn't necessarily involve going down to the substrates, it involves stopping the roof from leaking so that you could get the kids into the schools, and that they could perhaps manage a more modest program this summer so they wouldn't jeopardize the school year.

And that was my recommendation to him August 9th. And I never got a response from that, and so I—I don't know. All I can say is what I had to say.

Ms. NORTON. Mr. Lawson, did you have something you wanted to add?

Mr. LAWSON. One important milestone in this whole sequence that evolved from the urgent to an emergency situation: In the spring, when we were prioritizing and planning these 40 roofs, I believe it was contemplated that the schools at that time would stay open while the roof repairs were being done. I think that was the initial plan of the—and the presumption, at least that was within the project team, as we prioritized the work.

And then, subsequently, the decision was made that the schools could not stay open. And I think that's what—it was at that point that the crisis—it became from an emergency to a crisis, and then the timeframe——

Ms. NORTON. Of course, that was before school opened. And at whatever point you find out the work can't be done and the schools are going to be closed, you can make a decision to reschedule the number of roofs that you repair.

Mr. LAWSON. Correct. But I think that occurred in the summer, midsummer, if I'm not correct. And I know that the initial planning, back in spring, April-May timeframe, assumed that this work would be done while the schools were open—that the schools would remain open while this work was done.

Ms. NORTON. I am only trying to get an answer to—since they assumed the schools would be open, then you have to assume that they were ready to open schools the whole time. And so if at some point you find you can't get the roofs done, then let me ask you, since I sit on your committee—subcommittee, if this was a Federal building—and the chairman also sits on your subcommittee—would you have rescheduled the work at the point when you learned that you would have to go into a crisis mode and do something analogous to what had to be done here to the school?

Mr. LAWSON. If I were told I could not occupy space? I'm trying to draw the analogy.

Ms. NORTON. Whatever is the analogy. You would know what it is better than I do. I am asking you for your professional judgment, whether——

Mr. LAWSON. I understand.

Ms. NORTON. Whether—given the circumstances as you know them here, whether you think the work should have been rescheduled or should have gone full tank ahead, the way they did? What is your judgment?

Mr. LAWSON. I think they should have gone with the alternative of trying to complete the work as quickly as possible as the best alternative. That is my opinion.

Ms. NORTON. Even if it meant closing the schools?

Mr. **Lawson**. I just don't know enough about the school inventory or the alternatives—real estate alternatives available to the school system to give you an intelligent answer to that question.

Ms. **Norton**. I can see that.

Actually, Mr. Lawson, you have done a great deal. You are a good friend of the District and of mine, and you have done a great deal to help the District.

I ought to say for the record that from the very beginning, when London Bridge was falling down worst of all, I called in Mr. Lawson and asked for his help, and he has been abidingly helpful throughout, and througnout facing barrier after barrier, when he could have said, well, Congresswoman, I have tried, but he just kept on going.

So I am pulling his leg a little bit, and I think he is helping his friends a little bit.

But you have to understand——

Mr. **Lawson**. I understand.

Ms. **Norton** [continuing]. That the school system was making some progress and the closing of the schools was tragic in the sense that it tended to, for many parents, just wipe off all the good things that had occurred.

And the reason I go to some lengths to ask these questions is if, in fact, the way we deal with problems we have had in the past is, hey, I would do the same thing again, that really does bother me, because it means we do not learn from the inevitable mistakes we all make and then try to figure out a way so that the next time we will do it better. But if we say, hey, under all circumstances I would have done it this way, it says to me, if this comes up again, that that is what we can look forward to. That would be troublesome to me.

Was GSA asked to assist with more than the 10 buildings you did, either with roof or below work?

Mr. **Lawson**. Well, we were involved in the planning or the prioritization of planning for the follow-on work; and, yes, we were asked to give a proposal or a plan to get some of the follow-on work done.

Ms. **Norton**. Would you have helped during the 60-day period?

Mr. **Lawson**. During the crisis? No. It boiled down to the fact that we indicated to the schools that we could not accomplish the work in the timeframe that they——

Ms. **Norton**. Well, neither did they. I am trying to find out whether or not GSA was helpful or could have been helpful with the 40 roofs that were outstanding and caused the schools to close.

Mr. **Lawson**. We helped with doing the work that Mr. Miller outlined in scope development, the planning. That was——

Ms. **Norton**. For the 40 roofs?

Mr. **Lawson**. Yes. So that was a part of our effort. And we had certainly full intent or offered to help in doing the actual work. Just our schedules for doing the work couldn't meet the mandates that the school was under, and they had made management decisions to do it on their own.

Ms. **Norton**. You indicated earlier in your testimony that, as they moved on, you thought they were fully capable of taking on more and more of the work and of going ahead and doing it themselves. Are you prepared to help the District public schools to do any more of this roof work?

Mr. LAWSON. Sure, absolutely. And General Williams and I have had ongoing discussions. We did provide technical support to the schools.

Ms. NORTON. Are you prepared to do any more roofs or boiler work? Let me be clear.

Mr. LAWSON. Yes, we are.

Ms. NORTON. Have you been asked to?

Mr. LAWSON. No, we haven't to date. But if we can work out a plan to do it, and a plan that is a reasonable one to get work done, sure, we stand ready to help.

Ms. NORTON. As I understand it, there are 40 or more roofs to do this year. You have not been asked to help with any of those roofs?

Mr. LAWSON. Not directly, no. I don't believe so.

Ms. NORTON. I am simply asking because I want everybody to be at the ready at the beginning of the year in case we get anywhere close to the situation we found ourselves in before.

Ms. Filardo, I would like to find out more about your involvement. You say that you have done work not only with the D.C. public schools but with other big city schools. What other schools?

Ms. FILARDO. We have—part of our job is, we have been doing public-private development partnership work, and we had a national conference this summer on public-private development partnership.

Ms. NORTON. I am talking this kind of work.

Ms. FILARDO. No, no, we have not provided direct services to other schools.

Ms. NORTON. How did you become involved with the D.C. public schools?

Ms. FILARDO. I'm a parent of three children. I'm a District resident for 25 years. I have one child that graduated, and actually started out, obviously, because of my background in facilities, working with Oyster on the public-private partnership network many years ago. And Sara, my colleague, worked for 2 years in the school system, in their Facilities Planning Division, and also for the State of Maryland in their facilities branch, working with the State and with a number of counties on planning and school design.

Ms. NORTON. Now, you served on the task force that developed the preliminary plan.

Ms. FILARDO. The preliminary facility master plan. We were staff. In 1995——

Ms. NORTON. You were staffed. Were you paid by the D.C. public schools?

Ms. FILARDO. We were in 1995, yes.

Ms. NORTON. Now, then, you undertook to develop an alternative process and an alternative plan. Would you explain, having participated in one plan, what led you to develop your own alternative?

Ms. FILARDO. As I said, we were staff to the preliminary facility master plan and prepared that in 1995. And at the direction, I think it was part of the appropriation direction, was to complete that preliminary plan.

We had hoped to have been able to do a plan in 1995, but there were enrollment count problems, there was no education plan, there was other standards that were missing about school utilization, so we made a long series of recommendations on what needed to be done to do a complete plan, and the school system said, thank you very much, we'll finish it.

So we were monitoring this, at the same time working on the public-private development partnership issues, and, by fall of 1996, getting a little nervous, we were a year later and we still didn't have the plan.

Congress had given the District until April 1997 to complete this plan. So we prepared some standards as part of my participation in Goals 2000, as co-chair of the facilities committee, to begin to complete some of the work for the foundation for an actual plan.

The school system had also been working on collecting utilization information and other kinds of data. When the new administration came in, we went to them immediately and said, whatever we can do to help you, we will help you. And they said, well, we want to do it as an internal document, and we said, no, we think you need us. So they said, well, all right, and stuck us on a task force which met for about 6 weeks.

In the end, they produced a document with our name on it, in fact, but which in no way met the standard that we felt was acceptable. And so we tried to work again with the District from February 18th, when the draft was submitted to the council, to April 25th, to revise that document. And there were some revisions made, but basically what came out on April 25th, we found still not acceptable. So we decided that we should stop trying to get them to get it right and try to do it ourselves.

Ms. NORTON. Do you have any contact? Are you working with the school system at all?

Ms. FILARDO. Yes, actually. Throughout this entire period, we have been working on the Oyster public-private development partnership, and so we have continued contact with them on that.

Ms. NORTON. I am talking about facilities.

Ms. FILARDO. I'm sorry, that is a facility. That is a school contract.

Ms. NORTON. I am talking about the subject matter of this hearing with respect to the overall——

Ms. FILARDO. The plan? No. After we submitted that to them, and we transmitted to the board of trustees, to everybody, to your office, in fact, too; and you sent it on to Becton——

Ms. NORTON. Your assessment has been very detailed and very helpful and very thoroughgoing. The difficulty I have with it has nothing to do with its professionalism, which I think is outstanding, but with my inability to compare where you say the schools should be to something. That is to say, everyone agrees with you, first and foremost, that what they found in place was abominable. So that when you say they don't have, and then you go through dozens of things that could not be clearer, what I don't have a sense of is whether or not there has been appropriate improvement.

You see, it is very difficult to judge anybody in the D.C. public schools based on anything but that, given the state of the beast.

So that if that is what Dr. Ackerman is trying to do with youngsters, she has to say not that youngsters in the D.C. public school system are doing so poorly and must do X, she is trying to show that they, in fact, have improved over the year, which is really the only way you can approach a situation when you find people, students, or a system in the sorry shape that ours is in.

So what would be most useful to me would be some standard against which to measure where they have come, where they were, has there been improvement, improvement in what, rather than the notion that all of it is terrible, because we understand that, and we think it is going to be terrible for some time to come. So we can only know if they are getting us there if we know—have some benchmarks, however they are framed, to tell us whether there are steady improvements.

Ms. FILARDO. I think that we have done that, basically. One of the first things is a master plan that's based on standards and credible information, et cetera. We did not get that from this administration. We did meet yesterday for the first time since we put out the alternative plan on master planning, and I think that was good. But we didn't see the planning.

So my sense is that, no, it has not gotten better. A lot of what was missing is process, procedures, plans that were transparent and that were based on sound information. I don't think that we have gotten that in this first 14 months. I think we have lurched from crisis to crisis, which is what we used to do. And whether it's closings or getting out a plan or getting to a hearing or getting groups done, it has been business as usual.

But I do think that with proper oversight, had it been there by the board of trustees or the Control Board, that there is at least a willingness to change things. But what I haven't found in place, is the understanding of how to institute systems, the building of a system.

It's one thing to follow a system that is there, and to do it well; it is another thing to create the systems. We haven't created the systems. Perhaps you will be able to hear from them that they're developing it. I'm not aware of it.

Ms. NORTON. Well, I appreciate that, because I do think that a process standard is appropriate. I think you will find that parents and students will also use a standard of whether or not there is anything different in the school in which they happen to go. And I think it really does matter to a student if a roof does not leak. I think it really does matter to students that there is going to be, take something out of your jurisdictional area, if there is going to be a year-round school.

In other words, I think that in judging a school system—and I couldn't agree more that process is important, because, frankly, that is the only way to systematize anything and, therefore, show improvement. But in all fairness, I think that it was not business as usual to undertake to do a set number of roofs. It was far from business as usual.

They failed to accomplish their mission, but there was no work being done on roofs.

On oversight? They haven't done enough oversight. But one of the reasons that the Board of Education-elected board was criticized is the total absence of oversight.

Ms. FILARDO. But I would like to take issue. There is sort of a mythology that there has been no work done in the District of Columbia Public Schools. There was $100 million spent between fiscal year 1991 and fiscal year 1995 as part of the capital budget. They replaced doors, if you remember, which is partly why the schools were closed before. It was the big issue before roofs. And they were. They did massive door replacements.

Ms. NORTON. Ms. Filardo, don't make me sound like an apologist for the D.C. public schools. I recognize that there was work being done. After all, the schools had been closed. So of course they were doing work.

The fact is that when somebody says a major part of your problem, one that guarantees that schools will be closed, the roofs, so we're going to do all the roofs, that is the kind of systematic thinking that we like to see, and I give them credit for that thinking. I come up real short with them when their systematic thinking is so systematic that no matter what they discover as they move toward that goal doesn't stop them, doesn't make them rethink, doesn't make them reschedule, doesn't make them understand particularly that if you close schools, that is really the end of the game for you.

I don't criticize your assessment. I do say that, in judging the school system, that I am willing to grant them that they have chosen an important priority and that they did not accomplish it.

Mr. Lawson, was the GSA ever asked itself to serve in a project management or oversight role, given your greater experience with doing massive jobs all around the country and having to get them done on time or answer to Congress if you don't?

Mr. LAWSON. Well, yes, we were, on those projects that we accomplished on the initial stages. That was, I think, nine roof projects, roof repairs, and six boiler projects, and the planning——

Ms. NORTON. Well, I ask you—I know about those projects. I ask you about the project management and oversight role in light of Ms. Filardo's testimony. Because she says still you really don't have a delivery system in place. You know, things are going to get done maybe, but she says you don't have it in place.

So what I'm really asking is if you have—if one wanted to make sure that things occurred, if your system is being put in place, you try to look for something that might serve the purpose or help the purpose while it's being put in place. I'm really asking whether you have been asked to serve in this role while a new system for project management and oversight of jobs is being developed.

Mr. LAWSON. Not beyond the scope we've previously indicated.

Ms. NORTON. One of the first things that I spoke with you about, Mr. Lawson, was the procurement system. I saw GSA's procurement system as something of a magic bullet both for the police department and for the public schools. And I know that you have attempted to help with procurement, which has been a major problem in the D.C. government.

I would like to know whether—what role your procurement system is playing now, or your procurement work, the use of GSA procurement facilities is playing in the D.C. public schools or any other agency at this time.

Mr. LAWSON. Well, we have a range of support that we are providing the city. We are helping the police department with procurement of, as you indicated, of a number of their services, and in providing them procurement services until they get their whole operation up and running on their own. We were providing some administrative support to the Superior Courts, D.C. Superior Courts. Let me think off the top of my head.

Ms. NORTON. What did you say you were doing in the school system?

Mr. LAWSON. The school system, we actually—there are a couple of things still ongoing. We do provide operating supplies.

Ms. NORTON. Do you do any procurement work with the school system?

Mr. LAWSON. We're not, I don't believe, doing any procurement work for the facilities side of the school system, but we do provide, under our Federal supply service, operating supplies for the schools.

Ms. NORTON. Is it your view that the procurement system is working for the D.C. Public Schools?

Mr. LAWSON. I really don't know enough about their procurement system, but it must be if they have got the work done that they did get done in the timeframe they got it done.

Ms. NORTON. You are not citing that as an example of a working procurement system, surely.

Mr. LAWSON. Well, I just don't know enough.

Ms. NORTON. I mean you also said they didn't have access to money and the rest of it, which would seem to implicate the procurement system.

Mr. LAWSON. I really don't know how well their procurement system works.

Ms. NORTON. So you haven't been asked to help develop a state-of-the-art procurement system within the public schools?

Mr. LAWSON. Within the public schools, no.

Ms. NORTON. How long does it take a job to get in place, if you do it, on a typical roof job, let's say, of the comparable size in the Federal Government?

Mr. LAWSON. Well, what we have available we used in the first phases with D.C. public schools, as Mr. Miller mentioned. We have indefinite quantity—what we call indefinite quantity, indefinite delivery contracts. That is, we have contractors on board that we can procure it under competitive process who we can task with work on an as-needed basis. And we have agreed to unit costs and labor costs for that work with no particular quantity identified at the time we contract with them, so we don't have to go through a laborious procurement process to task them to do the work.

Ms. NORTON. That strikes me as wonderfully efficient. Perhaps D.C. doesn't have this yet. Do you believe that that would be an appropriate system for the D.C. government, much less the D.C. school system, to put in place?

Mr. LAWSON. I do. And I think that General Williams' staff does as well, and we've, I think in our work, worked with them to share with them how we make that procurement. I'm not certain where they stand, but I believe they're moving in that kind of direction.

Ms. NORTON. But you're not involved in that?

Mr. LAWSON. Directly, no.

Ms. NORTON. Finally, Mr. Miller, you emphasized that you did not provide comprehensive management, I think you said, but only technical assistance, so I don't understand your role. Who was providing the comprehensive management, and what do you mean that you provide only technical assistance?

Mr. MILLER. From project to project the range of services that we provide can vary. On D.C. schools, let me give a contrasting example. We provide facility services for the Job Corps centers for the Department of Labor, also arguably an educational function located across the country, and we're much more involved in the management. We're involved in procurement procedures, we're involved in schedules, costs.

On D.C. public schools we simply weren't involved in those issues. We wrote scopes, we investigated conditions, we developed technical data, we advised them on technical—advised D.C. schools on technical issues, and I think I have already hit on the construction monitoring role that we played. We simply weren't involved in a lot of the procurement procedures that I think you are examining today.

Ms. NORTON. No, I'm not asking about procurement procedures. I'm asking about the management of the work.

Again, I refer back to Ms. Filardo's notion that D.C. hasn't had the time, let's say, to develop the full state-of-the-art comprehensive management system you would expect to be in place if you are doing something as ambitious as replacing a whole set of roofs in your system.

You say that your job was only technical assistance. You almost make it sound like on an ad hoc basis. Who was doing the comprehensive management?

Mr. MILLER. The short answer is D.C. schools was doing the comprehensive management. Let me—give me one moment.

By contrast, what I would call more traditional construction management that we provided for three GSA projects done for D.C. schools this summer involved some tasks which we simply didn't perform for the majority of our work with the schools directly: Reviewing construction progress payments with the contractor, monitoring the schedules, and basically work resolving any kind of schedule anomalies, issuing field directives directly to the contractor, making recommendations on contract instruments, such as change orders.

We were involved in estimating, preparing government estimates both for the base job and occasionally for change orders. But in terms of directing the contractor, we didn't do that. So the project managers onsite who worked, the D.C. school employees, were the people most responsible for directing contractors.

If I could——

Ms. NORTON. Yes.

Mr. MILLER [continuing]. Skip back to a comment you made earlier concerning what have we learned and are we going down this same road again.

We're encouraged from our perspective that, as of today, there are 20 roof scopes for the fiscal year 1998 program and 12 window projects which are nearly complete. And by that I mean they will be complete by the end of this month.

Ms. NORTON. Is that according to a schedule? Is that on schedule?

Mr. MILLER. I have not seen D.C. schools' schedule to know whether it's on schedule, but I can say it's 6 months earlier than where we were last year. So it looks like a substantial abatement of emergency.

Ms. NORTON. Mr. Chairman, I don't have any more questions. I do want to say this; that as I listen to you, in particular, in comparing the experience and the work that the GSA has done, and the GSA has been very charitable, Mr. Lawson has been very charitable and generous, and perhaps that's appropriate, it does seem to me that if Ms. Filardo is correct—and perhaps even General Becton and General Williams would concede that you are largely correct because, after all, they haven't been here long enough to have constructed a new delivery system—if she is correct, I gather from your testimony that the leadership put themselves in something of an impossible position by not finding agents who could undertake the comprehensive management, such as the delegation that occurred to you, Mr. Lawson.

That is to say, if you want to do a set number in a set time and don't want to reschedule your work, and that's what your goal is, then you have to find a way to get it done in that time. Now, one way to get it done is not to leave yourself open to attack by saying, "I'm getting it done and I'm going to do it all. And I know I'm working with a decrepit delivery system, and I'm still going to do it all." You say, "Wait a minute, if I am going to do this schedule, I'm going to find an agent."

Mr. Miller, in the way you say you worked with the Youth Corps, or whoever, GSA and its work with the Youth Corps, or Mr. Lawson, the way in which you worked with the 10 buildings, this is an alternative if you really want to meet that schedule. If, on the other hand, you find that the schedule is impossible to meet and you don't want to contract with an agent, maybe for reasons—maybe because you don't have the money, maybe you insist that you need to use your own employees for that reason—then it seems to me that you have to make the decision to reschedule the work. And it seems to me those were the alternatives open. And I'm deriving this entirely from your testimony.

The testimony has been very useful to us in giving us some understanding of what occurred. I hope that it will prove as useful to the school system. Thank you very much.

Mr. DAVIS. Thank you very much. And let me just say to our panel, Mr. Miller, thank you very much for the quality assurance your firm has provided in your testimony here today. Mr. Lawson, we have had an ongoing relationship with the District. I think Mrs. Norton has appropriately said you have been a friend of the District. We appreciate your efforts. Ms. Filardo, thank you for being here raising some questions, giving us some yardsticks to measure and judge the efficiencies. We will have some of the witnesses testify later that will respond to some of these issues. Thank you all for being here.

Mr. LAWSON. Thank you, Mr. Chairman.

Mr. DAVIS. I would now call our second panel to testify. It will consist of Dr. Andrew Brimmer, chairman of the Control Board; and Mr. David Cotton, who is the managing partner of Cotton & Co., the firm that did the performance audit of the District school system under contract to the Control Board.

It is the policy of the committee that all witnesses be sworn before you can testify, so if you would rise and raise your hands.

[Witnesses sworn.]

Mr. DAVIS. Please be seated. I ask unanimous consent that any written statements will be part of the permanent record. We would ask that you try to limit your oral statements to 5 minutes. As you can see, we have a lot of time for questions, and members of the committee have read the testimony to date. So we appreciate your being here.

Mr. Cotton, you would just identify the people with you so we can get that on the record?

Mr. COTTON. Yes, Chairman Davis. I would like to introduce to my left Mr. Ed Fritts, senior manager with Cotton & Co.

Mr. DAVIS. Mr. Fritts, welcome.

Mr. COTTON. And to his left Mr. Marvin Allmond, managing partner of Allmond & Co. Allmond & Co. assisted us on the audit.

Mr. DAVIS. Excellent. Thank you both for being here.

Dr. Brimmer, thank you for being with us once again. You are a fixture at these hearings, and we appreciate your waiting through the first panel. Please proceed.

STATEMENTS OF ANDREW BRIMMER, CHAIRMAN, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY; AND DAVID COTTON, COTTON & CO., ACCOMPANIED BY ED FRITTS, SENIOR MANAGER; AND MARVIN ALLMOND, MANAGING PARTNER, ALLMOND & CO

Mr. BRIMMER. Thank you very much, Mr. Chairman, members of the committee. I appreciate the opportunity to appear before the subcommittee today to discuss several important issues related to the public schools.

First, let me say that the Authority takes seriously its responsibility under our statute to improve the lives and the educational future of the children of the District. The Authority, after intensive study during the summer of 1996 of the condition of the public schools and the dwindling opportunities for our children's effective education, took action that we believed would improve the condition of the schools. And we took that action on November 15, 1996.

From the context of today's discussion, we did two things that are relevant. We created an emergency transition education board of trustees and we created the position of executive office of superintendent and charged them with implementing far-reaching changes to improve the system.

Now, one of the most troublesome areas that the Authority found in its review of the schools was the condition of schools facilities. It became quickly evident that the ability of the children to learn effectively was undermined by their environment, where classrooms were not safe, where heating and air conditioned went unrepaired, where many roofs leaked and toilets frequently did not work.

As you know, the majority of the schools date back to around the turn of the century. Many have never seen roof repairs or any significant modernization made either to comply with applicable building codes, to provide basic amenities or to protect safety. The Authority immediately asked the new board of trustees to focus on the problems of the schools' facilities.

In establishing the powers and responsibilities of the trustees, we noted that operating methods in effect at the time were frequently counterproductive and hampered effective service delivery. The Authority emphasized that schools should be free to adopt policies and procedures that would promote greater efficiencies while simultaneously ensuring responsible stewardship for public funds.

In the course of the schools' repair program last summer—and I do want to focus on that directly, Mr. Chairman—the Authority, along with a number of other agencies, determined that considering the rapid pace of activities, a review of the program's operations and procedures should be conducted. Rather than see a series of separate reviews instituted, the Authority decided to consolidate inquiries and initiate an audit of the program. We initiated that audit.

I would also note that the Authority initiated the audit as part of our overall program to improve procurement in the District Government. Procurement reforms remain an important management goal of the Authority, both in the public schools and throughout the rest of the government. Therefore, as part of the effort to reform procurement in the public schools, the Authority sought to audit the procurement program used for execution of fiscal 1997 capital contracts. We believe that the findings from the audit will be beneficial to improving not only operations of the schools but the operations of other District agencies as well.

And as you know, Mr. Chairman, the audit was completed by Cotton & Co., at the end of December. The audit found a number of problems related to process, to the process used by the schools to conduct their procurement operations. On January 13th the Authority released the audit report to the public.

We asked Cotton & Co., to determine the following: Whether the schools had an effective procurement system in place during fiscal year 1997 for capital improvement projects. We asked them to determine whether the procurement system met the statutory, regulatory and program needs of the schools. The audit concluded that the schools did not have an effective procurement system in place and that the system did not meet statutory, regulatory needs of the schools.

The Authority is concerned about the serious nature and scope of the audit findings. I want to emphasize that we take these audit findings very seriously. As a result, the board members met with Cotton & Co., to review their findings, and we have asked the Inspector General of the District of Columbia to review the audit findings and to make any further recommendations as necessary for correction and improvement of the schools' procurement operation.

Mr. Chairman, you have already had a lot of testimony this morning on the repair program, and I won't go into details, but I would want to say that the program that was undertaken, was undertaken during the summer to correct fire codes. They were under a great deal of pressure and court mandate to undertake those repairs. And I want to stress that they did that. They carried out what was, in fact, as has already been mentioned here today, a heroic job in a hectic environment. And many of the flaws that turned up in the audit with respect to controls and procedures have their origin in that hectic environment in which they were operating on an emergency basis.

Now, in fiscal 1997, the schools had approximately $50 million of committed funding for emergency repair programs at a time when the facility repair needs were estimated to cost $86 million. This left the schools some $36.8 million short for critical programs necessary to ensure the elimination of the fire code violations and to pay for other repairs.

I describe in my testimony the steps we took to try to help the schools close the funding gap, which included, as the committee will recall, a request to the Congress for supplemental funds to cover the needed repairs. The Senate responded favorably and provided $31 million in its supplemental appropriations, $22.3 million of which was earmarked for school construction. The House of Representatives, however, declined to provide any additional funds so the supplemental was not approved.

Now, let me pause to say that—and I will refer to the earlier discussion—I want to pause and say something about the availability of funds, when the funds were available, and what impact the lack of availability had on the ability to put contracts in place and when, and I will come to that in a minute, if you will permit me, Mr. Chairman.

So what I want to do now is to stress that I have had a briefing from the schools' administration the last couple of days. I focused on trying to find out what have they done with respect to assuring that the kinds of problems with respect to policies, procedures and controls do not arise in the future.

First, we have refocused. We at the Authority have refocused on our own responsibilities with respect to school construction. The committee might recall that under the statute the Authority is charged with the administration of school repair funds. The Authority is charged in another statute with overseeing the school construction program. We decided to fold into the school administration the school facilities authority, and we vested that responsibility in the chief executive officer of the schools. He, in turn, delegated that responsibility to a director of schools' facilities.

We have decided, and I particularly have decided that in the future I will pay more attention directly with respect to oversight of that function. It will remain in the CEO, but there will be closer monitoring of that function.

In the meantime, the Authority has decided that a number of crosscutting functions in the city as a whole should report to the Authority. That responsibility will be delegated to the chief management officer. Included in that centralized reporting and oversight is procurement.

Now, the schools are in the process of revamping their procurement, including procurement for construction services, to conform with the guidelines that are being developed for oversight on a citywide basis. The schools, of course, have specialized needs, police have specialized needs, and fire have specialized needs, so their concerns and requirements will be blended with the general guidelines I have just described.

In the meantime, the responsibility for contracting procurement in the schools has been shifted from the director of school facilities to the chief financial officer. That occurred as of October 1. The chief financial officer, in turn, has adopted procedures, he's still developing them, whereby there will be a closer blending of procurement and of financial management.

The director of school facilities has also modified his procedures. For example, one of the questions which arose during the last year was the extent to which the construction program was coordinated with and guided by the academic requirements. There apparently, at certain points, was a divergence of those interests and concerns. That has been changed. The CEO has directed that the academic requirements be one of the priority considerations for any construction planning and implementation. In carrying that out, the director of the facilities operation now includes representatives of the academic side in those deliberations from the very beginning.

I am convinced that with the change in oversight, the adoption of new procedures, and the centralization of oversight, that the problems that arose, problems of process and control that arose during this summer emergency construction period will be not likely to happen again.

Mr. Chairman, I will be delighted to respond to your questions, but my overall view is that, to summarize, the emergency operations in the summer of 1997 achieved substantial results, but the controls, the procedures were flawed, and the audits found those and documented those. We have taken steps, the schools have taken steps to see that that does not happen again.

I have tried to stress that the future is what we ought to really look at, and we're convinced that the future management will be greatly improved. Thank you, Mr. Chairman.

Mr. DAVIS. Thank you. We would like to be partners with you in that up here.

[The prepared statement of Mr. Brimmer follows:]

Mr Chairman and Members of the Subcommittee:

Good morning. My name is Andrew F. Brimmer, and I am Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority). I appreciate the opportunity to appear before the Subcommittee today to discuss several important issues relating to our Public Schools.

Introduction

The Authority takes seriously its responsibility under Public Law 104-8 to improve the lives and educational futures of the children in the District of Columbia. The Authority, after intensive study during the summer and fall of 1996 of the condition of the public schools and the dwindling opportunities for our children's effective education, took action that we believed would improve the condition of schools and the opportunities for quality education. On November 15, 1996, the Authority established the Emergency Transitional Education Board of Trustees and the position of Chief Executive Officer-Superintendent and charged them with implementing far-reaching changes to improve the school system.

One of the most troublesome areas that the Authority found in its review of the Public Schools was the condition of Schools' facilities. It became quickly evident that the ability of our children to learn effectively was undermined by an environment where classrooms were not safe, where heating and air conditioning went unrepaired, where many roofs leaked and toilets frequently did not work. The majority of the District's public schools date from nearly the turn of the century. Many had never seen a roof repaired or any significant modernization made either to comply with applicable building codes, to provide for basic amenities, or to protect students' safety.

The Authority immediately asked the new Board of Trustees to focus on the problems of Schools' facilities. In establishing the powers and responsibilities of the Trustees, we noted that operating methods in effect at the time were frequently counterproductive and hampered effective service delivery. The Authority emphasized that the Schools should be free to adopt policies and procedures that would promote greater efficiencies, while simultaneously ensuring responsible stewardship over public funds.

Schools' Audit

In the course of the Schools' repairs program last summer, the Authority, along with a number of other agencies, determined that, considering the rapid pace of activities, a review of the program's operations and procedures should be conducted. Rather than see a series of separate reviews instituted, the Authority decided to consolidate inquiries and initiate an audit of the program.

I would also note that the Authority initiated the audit as part of its overall program to improve procurement in the District Government. Procurement reform remains an important management goal of the Authority, both in the Public Schools and throughout the agencies, as evidenced by the Management Reform projects in this area. Therefore, as part of the efforts to reform procurement in DCPS, the Authority sought to audit the procurement process used for execution of fiscal year 1997 capital contracts. We believed that findings from the audit would be beneficial to improving not only operations of the Schools, but the operations of other District agencies as well.

As you know, Mr. Chairman, the audit, completed by Cotton & Company LLP, at the end of December, 1997, found a number of problems related to the process used by the Schools to conduct their procurement operations. On January 13, 1998, the Authority released the audit report to the public.

We asked Cotton & Company to determine the following:

(1) Whether the Schools had an effective procurement system in place during fiscal 1997 for Capital Improvement Projects, and,

(2) Whether 'the procurement system met the statutory, regulatory, and program needs of the Schools.

The audit concluded (1) that Schools did not have an effective procurement system in place, and (2) that the system did not meet statutory and regulatory needs of the Schools.

The Authority is concerned about the serious nature and scope of the audit findings. I want to emphasize that we take these audit findings very seriously. As a result, the board members met with Cotton and Company to review their findings and we have asked the Inspector General of the District of Columbia to review the audit findings and make any further recommendations as necessary for correction and improvement to the Schools' procurement operations.

Repair Program

Mr. Chairman, I wish to turn now to the context in which the School's Capital program was implemented last summer. It is important that the Subcommittee understand the conditions which prevailed at the time the repair work, was undertaken. Most of the flaws in the process identified the hectic environment in which the work took place.

In fiscal 1997, the Schools had approximately $50 million of committed funding for its emergency repair program, at a time when the facility repair needs were estimated to cost $86 million. This left the Schools some $36.8 million short for critical programs necessary to ensure the elimination of fire code violations and to pay for other priority repairs. On that basis, on April 14, 1997, the Authority requested from the Congress that it provide a Supplemental Appropriation to cover the additional costs of these repairs. The U.S. Senate responded favorably, and provided $31 million in its supplemental appropriations bill for the District, $22.3 million of which was earmarked for Schools' construction. The House of Representatives, however, declined to provide any additional funds, so the Supplemental was not approved.

Without all of the necessary funds in hand, therefore, the Schools were forced to rearrange many of the projects to repair buildings in time for the September deadline of the new school year. An already delayed start at repairs was further exacerbated by the *Parents United* lawsuit. Ultimately, the Schools could not be worked on without the express permission and supervision of the Court. In the meantime, no one could enter the Schools to prepare for the next school year, which adversely impacted a host of education-related programs. In fact, in several instances, when Judge Christian began closing schools after September 22, principals were given fifteen minutes to have all children out of the building. Under such short time constraints, students were forced to leave textbooks and school supplies in their lockers. Teachers did not have ample time to retrieve grade books or instructional materials. This meant that children would sit in crowded auditoriums, church basements, and community centers without any learning materials. School officials asked the Judge to allow custodians and school administrators to enter the closed schools to gather books and supplies. They were denied this request. The cost to DCPS' local budget was massive. Transportation cost to make-shift classrooms was estimated at $20,000 per day, and lunches had to be provided outside of DCPS' regular food services program. In total, these extra costs may have amounted to about $4.3 million. There was no provision in the School's budget to cover these costs.

By the time the Schools finalized the summer 97 repairs program, it was the height of the regular construction season. As a result, there were few contractors available to do the work, and materials were scarce and available only at high prices. Much of the work had to be done on weekends, and may construction workers had to be paid overtime rates. Clearly, this was not a normal environment. Yet, the Schools had little choice except to implement the construction program as best they could.

Let me stress, however, that the Authority still expected – even under difficult conditions – that the Schools would follow appropriate procurement procedures. I can understand why Schools managers—caught in tight situations—-chose to use abbreviated procurement procedures to meet short deadlines. But they were then obligated to review their methods to ensure that their actions were appropriate. I have been assured that for cases where the files are still open this review is being done.

Future Conditions

So far in my testimony, I have outlined the conditions that led to the findings and criticisms contained in the audit. Let me now turn to the future and explain how the Authority is dealing with the issues involved.

As you know, Public Law 104-134, "The Omnibus Consolidated Rescissions and Appropriations Act of 1996," passed by Congress on April 26, 1996, provided that the Authority assume direction and oversight over Public Schools' facilities. In November, 1996, the Authority merged the Schools Construction Authority into the new Schools Administration. The responsibility to carry out the school construction program was delegated to the Schools' Chief Executive Officer. In turn, the CEO delegated authority over schools construction to the newly created Office of the Director of Schools' Facilities.

In light of the audit findings by Cotton & Company, the Authority has already re-emphasized to the Schools' CEO the nature and requirements of duties for which a Director of Schools' Facilities is responsible. Establishing the capacity to ensure an effective, but responsible, procurement operation must be a priority of the School system.

Since the audit's completion, the Authority and the Schools have worked closely to review the recommendations and to ensure that a program of reform is implemented to eliminate both the problems and the underlying causes of the procurement system's failure. The audit included recommendations for corrective action in several areas. Chief among those recommendations is a reform of the Schools' procurement procedures. The Authority fully supports total reform in this important area—consistent with our initial directives on procurement. As a result, the Schools are in the process of instituting important policy and procedure-related reforms to ensure the continued integrity of procurement activities necessary to repair and make safe the District's aging school buildings and other education facilities.

Moreover, the Authority has directed that several city-wide functions (including procurement) report on a centralized basis. Accordingly, the Schools are in the process of restructuring procurement operations. The Schools, along with other agencies such as Police and the Fire Department, which have specialized procurement needs, are in the process of working out guidelines with the Chief Management Officer with respect to their daily procurement operations and procedures. Those guidelines will be approved by the Authority before they are put into use. These changes will allow the District to reduce costs and to eliminate red tape and redundancy. They will also ensure system-wide integrity of the procurement process.

The Authority and the Public Schools are dedicated to ensuring that procurement of goods and services are effectively and responsibly managed. Quick responses to these audit findings will be the best assurance to the citizens of the District that the school system can meet the management challenges that they face in delivering the highest quality education to our young people.

As Chairman of the Authority, I plan to devote more of my time to ensuring that the Schools' construction program is handled in a responsible, but effective fashion. I believe that, through the institution of the measures I have described here this morning, we will improve the procurement practices of the District Government, and the Public Schools. The program I have outlined, and to which the Authority is committed to implementing, will ensure that the types of problems revealed in the Cotton & Company audit are unlikely to recur.

This concludes my testimony. I would be pleased to respond to any questions that the Subcommittee has at this time.

Mr. DAVIS. Mr. Cotton.

Mr. COTTON. Chairman Davis, Delegate Norton, I'm pleased to be here today to discuss the results of our performance audit of the fiscal 1997 capital improvement program procurement process. As Dr. Brimmer indicated, we did that audit at the request of the Control Board.

Your invitation to me identified 12 specific areas of interest and concern to the subcommittee. I prepared written testimony that addresses those areas of your inquiry that were within the scope of our audit. Most of those prepared remarks were extracted from our audit report. Therefore, with your permission, I would like to submit those written responses for your record rather than reading them.

Mr. DAVIS. Without objection, so ordered, yes.

Mr. COTTON. And I will do my best to respond to any specific questions you have.

[The prepared statement of Mr. Cotton follows:]

Chairman Davis, Delegate Norton, and Members of the Subcommittee:

I am pleased to be here today to discuss the results of our performance audit of the District of Columbia Public Schools (DCPS) Fiscal Year 1997 Capital Improvement Program (CIP) Procurement Process. The audit was conducted at the request of the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority).

I am accompanied this morning by Mr. Ed Fritts, a senior manager with Cotton & Company, and Mr. Marvin Allmond, CPA, managing partner of Allmond & Company. Mr. Allmond and his staff assisted us on the audit.

The audit was requested for the purpose of determining if (1) DCPS had an effective procurement system in place during Fiscal Year 1997 for the CIP projects and (2) the procurement system met the statutory, regulatory, and program needs of DCPS. We issued our report, dated December 15, 1997, to the Authority on January 12, 1998.

Your invitation to me identified 12 specific areas of interest and concern to the Subcommittee. Some of these areas were either outside the scope of our audit objectives or not directly related to our primary audit objectives. Also, we are unable to give you detailed conclusions, because of audit scope limitations and restrictions.

I note that two areas of particular concern to the Subcommittee and others are (1) the question of when funding became available to DCPS and (2) the extent of extra costs incurred by DCPS when it operated in an emergency procurement mode. We did not expend extensive audit resources on these two particular issues, because these are the primary objectives of an audit currently being conducted by the General Accounting Office in response to a request by Senator Brownback, Chair of the Senate Committee on Governmental Affairs.[1]

Consequently, we focused our resources on the primary objectives of determining the extent to which DCPS (1) followed sound procurement policies and procedures and (2) complied with applicable laws, rules, and regulations. I believe that the Authority's main objective in requesting that our audit be completed quickly was to identify procedural problems that require correction prior to commencement of the Fiscal Year 1998 facility repair process.

Let me now address the specific Subcommittee concerns that fell directly within the scope of our audit.

Process utilized to develop the necessary scope of work and to pursue project design.

Some contract files did not clearly document who developed project designs. For 37 projects addressed early in the Fiscal Year 1997 CIP, DCPS relied on a General Services Administration

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[1] *Government Auditing Standards*, at paragraph 6.65, state that "[o]ne factor underlying GAGAS audits is that federal, state, and local governments and other organizations cooperate in auditing programs of common interest so that auditors may use others' work and avoid duplicate audit efforts."

(GSA) contractor to develop plans and specifications. For 20 later projects, however, the contract files do not reveal specific plans and specifications or who developed them. Consequently, we could not determine if plans and specifications were adequate.

Process utilized to develop the project cost estimates.

Contract files did not clearly document who developed project cost estimates or how they were developed in all cases.

An architectural engineering firm under contract with GSA prepared estimates for 48 schools. According to that firm, the estimates were higher than would otherwise have been the case for the following reasons:

- Shorter-than-normal time allowed for bid preparation
- Shorter-than-normal time allowed for work to be done
- The need for simultaneous work on approximately 50 schools and the resultant pressures on the available labor supply
- The need for DCPS work to be done during the same construction season that other jurisdictions were using
- The need for contractors to use labor from outside the local area on short notice and at premium rates
- The need for work to be done during nights and weekends and the resulting labor cost premiums
- The need for delivery of materials from outside the local area, because of the high demand on the supply of materials

In some instances, contract files indicated that DCPS Capitol Project Office (CPO) project managers prepared the cost estimates, although the identity of individuals who prepared the estimates was not always clearly documented. We noted one instance in which the government estimate was prepared by a CPO project manager after bids had been received. We also noted 4 instances in which no government estimate was documented. In 11 cases, an estimate was stated, but its source was not documented.

Process utilized to identify qualified bidders.

The Authority initially enlisted the support of GSA for 5 roof replacement projects in October 1996. By January 31, 1997, 20 additional schools were closed for fire code violations. DCPS requested GSA's assistance in March and April 1997 for roof replacements at 2 schools and in June 1997 for roof replacements at 3 schools. This work was performed by contractors already under contract to GSA.

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DCPS issued a Request for Qualifications (RFQ) on May 19, 1997, for projects it intended to manage. This resulted in the apparent prequalification of 26 potential contractors. On July 1, 1997, already well into the limited school construction season, an Invitation for Bids (IFB) was issued for an anticipated single contract for roof replacements at 15 schools and boiler and chiller replacements at 5 schools. Because work needed to be done by the beginning of September, bidders were only given 14 days to respond. This strategy failed when contractors informed DCPS that they were unwilling to bid on this large total "package." DCPS then issued an addendum to the IFB on July 11, breaking the procurement down into 8 separate, smaller packages, 6 of which were for roof replacements at 48 schools. Bidders were then given until July 21, or 10 days, to respond.

Responses to this revised strategy were disappointing and resulted in contracts for only 2 of the 8 packages—roof replacements at 15 schools. With the time available to complete the work rapidly diminishing, DCPS changed its strategy once again. On July 25, 1997, the prequalified bidders were requested to submit bids within 3 days for any of 23 schools on which they wanted to bid. Bidders were told that the work still needed to be completed by September 11, 1997. Few bids were received, and those received were generally high. Four contracts were awarded for roof replacements at 9 schools based on bids received. Five contracts for roof replacements at 10 schools were awarded based on undocumented negotiations. Plans for work on 4 schools were either dropped or changed. Contracts for work on 3 other schools not previously included in any solicitations were awarded, but the contract files did not document the basis for these awards.

Following the unsuccessful initial DCPS-managed work strategy and the limited success of the revised strategies, DCPS project managers began contacting small groups of contractors (without public advertisements) and, according to DCPS's Chief of Contract Administration, urging them to bid. Project managers would invite three to five contractors (some prequalified and others not) to inspect a site, provide them with site specifications, and ask them to provide bids within hours. This final strategy resulted in contracts for work at 20 schools.

DCPS contract files had no records of the extent to which the CIP requirements were advertised. The DCPS Chief of Contract Administration told us that he did not have a clear recollection of the extent to which the requirements were advertised. He said he thinks the initial RFQ was advertised in the "*Washington Times* because DCPS was on credit hold with the *Post*," and provided to companies referred by Chief Operating Officer's (COO) staff and other vendors who called and requested it. He said the requirements were not advertised in the *Commerce Business Daily*. One subcontractor told us that he had not seen any advertisements of the requirements, because they had not been advertised in the "traditional way." He stated that these types of construction requirements are usually advertised in the *Dodge Report*.

A significant element of DCPS's original contracting strategy was to prequalify companies capable of performing the work that would later be advertised. Prequalifying companies in advance would reduce the amount of time required in the award process. DCPS appears to have prequalified 26 companies or joint ventures. Contract files for 20 of the 31 DCPS-managed contracts indicate, however, that project managers decided which firms to invite to bid. Some contract files contain project manager memorandums stating that a specific number of "prequalified" bidders was invited for a site tour. Of the 45 firms that submitted price proposals for these 20 contracts, 38 firms (or 84 percent) were not on the prequalified contractor list. Based on the prequalified contractor list obtained from the DCPS procurement office, only 7 of 31 DCPS-managed contracts were awarded to "prequalified" contractors. Uncertainty appears to have existed regarding the prequalification process.

Information obtained from the CPO indicates that some contractors may have been prequalified without a determination that they met all of the prequalification requirements.

The DCPS COO told us that if a contractor was on a roofing material manufacturer's list of certified installers, had previously done satisfactory work for the District, or was on GSA's list of approved contractors, the contractor was deemed to have achieved prequalified status. We found no documentation, however, that these qualifications had been verified.

Procedures implemented to develop appropriate Requests for Proposal (RFP).

As described above, initial CIP projects were procured through existing GSA contractors. DCPS representatives told us that they had no contract files for these GSA-managed contracts.

For the initial DCPS-managed procurements, a formal invitation for bids (IFB) was used that contained preliminary specifications developed by a GSA-contracted architectural engineering firm. This IFB appears to have followed 1987 DCPS policies and procedures and resulted in roof replacement contracts for 15 schools. According to the DCPS Chief of Contract Administration, this was the only formal bid opening conducted by procurement staff. All other contracts were awarded based on "requests for pricing through competitive negotiation," and formal IFBs or RFPs were not prepared.

The process referred to by the DCPS Chief of Contract Administration as "competitive negotiation" was not documented. It appears to have been carried out at the direction of the DCPS COO. We found no formal documentation detailing the emergency procurement procedures that the COO intended would be followed. Two undated, informal, handwritten memorandums appear to outline his intentions. Both are addressed to the DCPS Chief of Contract Administration, the Deputy Facilities Management Director, and the Chief of Capital Projects. One states: "Guidance [on] our capital procurement--I want to eliminate the old notion of low bid and substitute it with the most responsive offer. We do not want any more IFB but responsive to our request for proposal ... the low bid issue has gotten us in trouble." The other states: "I want to emphasize once again that the administrative procedures [are]: 1. Technical Evaluation; 2. Cost Evaluation; 3. Source Selection; 4. COO/Approval; 5. Chris (contracting officer) for process."

Subsequent process utilized to determine bid awards.

As noted above, the Chief of Contract Administration stated that only one formal bid opening occurred in which some contract awards were made to low bidders. Contract files do not document the basis for awards made under what DCPS refers to as "competitive negotiation."

Subsequent process utilized to track actual project costs and potential cost overruns along with managing contract amendments or change orders.

We noted problems regarding certification of funds and change order processing. We found a consistent pattern in which contractors were instructed to proceed with contract work prior to DCPS obtaining a certification that funds were available.

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Of $30,011,738 of initial contract awards by DCPS, $23,151,460 (or 77.14 percent) was attributed to contracts under which the contractor was issued a notice to proceed prior to the certification of funds availability. Funds availability was certified up to 63 days after notice to proceed; the average delay was 13 days.

Contract files evidenced $1,196,454 in change orders on 14 of the 31 DCPS-managed contracts. The files contained no evidence that funds availability was ascertained and certified prior to change order approval. Evidence of an additional $916,460 in requested change orders (documents indicated approval by the CPO but not by the contracting officer) was found at the CPO. These additional change order requests were not in the contract files. Because all work on all DCPS-managed projects was (according to the Chief of Capital Projects) substantially complete by September 18, 1997, this additional change order work may have been done without contracting officer approval or certification of funds availability.

The Chief of Capital Projects stated that this change order work was "directed by the project manager in the field ... to prosecute the work in a timely manner. Negotiations to ratify these directed extras are ongoing, based on labor and material records, and [documentation] will be added to the file when complete."

The Chief of Capital Projects' statement may indicate that additional, as yet unidentified, change orders may still be processed for work already completed. DCPS does not have a control to ensure funds availability to cover the cost of these project-manager-directed changes. The DCPS Chief Financial Officer (CFO) stated that he is confident that sufficient funds remain uncommitted and available for use. This practice, left uncorrected, could result in the over-commitment of available funds, violation of the Anti-Deficiency Act, and prolonged disputes between DCPS and contractors.

Contract files indicated that $7,521,147 (25 percent of the obligated amount) remained unpaid on these contracts as of December 15, 1997.

The absence of adequate procedures to ensure that funds certification and obligation occur in a timely manner shows a lack of management control and accountability and creates the possibility for DCPS to commit more funds than it has available.

Even under emergency conditions, any recognized body of procurement policies, rules, and regulations requires an organization to follow sound processing procedures and maintain basic management controls over or within those processing procedures. The Anti-Deficiency Act, 31 USC 1341, prohibits a government employee from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation.

The DCPS CFO stated that he is confident that sufficient funds were uncommitted and available for use for the Fiscal Year 1997 CIP contracts. In a December 11, 1997, memorandum to the DCPS Chief Executive Officer (CEO), the CFO stated:

> *As you know the draft capital audit has noted that the Chief Financial Officer did not officially certify that funds were available for capital projects. While this is technically true, my office specifically entered obligations and expenditures in the Financial Management System (FMS) and this information along with a separate spreadsheet monitored funds availability and ensured that contractual obligations did not exceed available funds.*

This memorandum also pointed out a technical problem with certifying capital funds availability, because the Authority maintains capital funds for DCPS, and the Authority has provided neither the exact amount of funds available nor documentation supporting the funds available. In the interim, DCPS has entered "available" funds into the FMS based on verbal information and press releases. As a result, the CFO said that he could not technically certify that capital funds are available.

Were any laws, regulations, or procurement provisions violated?

Public Law 104-208, *Title V--Additional Appropriations*, Sec. 5201, dated September 10, 1996, was the legislation that mandated the DCPS facilities improvement initiative and authorized its initial funding. It states that:

> *The Authority shall have the authority to contract with a private entity (or entities) to carry out a program of school facility repair of public schools and public charter schools located in public school facilities in the District of Columbia, in consultation with the General Services Administration ... [p]rovided, ...[t]hat contracting authorized under this section shall be conducted in accordance with Federal procurement rules and regulations and guidelines or such guidelines as prescribed by the Authority.*

On November 15, 1996, the Authority issued a Resolution, Order and Recommendation establishing the DCPS Board of Trustees. The Order stated that:

> *The Board of Trustees, in addition to exercising the authority, powers, functions, duties and responsibilities herein provided, shall oversee all facility planning, construction, improvement, repair, rehabilitation, and maintenance and is hereby delegated the powers and responsibilities of the Authority under Sections 5201 and 5206 of Public Law 104-208 with respect to school buildings and grounds.*

We concluded that the intent of Public Law 104-208 is clear in stating that Federal procurement rules, regulations, and guidelines were to have been followed until other procurement procedures were adopted. The Authority delegated this responsibility to DCPS in total. We found no evidence that the Board of Trustees (1) formulated and adopted its own policies, procedures, rules, and regulations as the Authority's Order directed, (2) adopted the Board of Education's policies, procedures, rules, and regulations, or (3) was aware of the Public Law 104-208 requirement to follow Federal procurement rules.

Although we found no direct evidence of fraud within the limited scope of our audit, in our opinion, the combination of (1) not following any documented procurement policies or procedures, (2) operating in an emergency mode with compressed timeframes, and (3) not maintaining accurate and complete documentation of procurement decisions and actions created conditions conducive to fraud, waste, and abuse. Specifically, we concluded that conditions were conducive to collusive bidding and created opportunities for bribes, kickbacks, and illegal gratuities. At a minimum, these conditions placed honest personnel in compromised positions where their actions and decisions become suspect. We understand that the Authority has requested that the District of Columbia Inspector General conduct more detailed analyses of certain specific matters that we identified during our audit.

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Were any contract administration procedures violated?

Sound procurement and contract administration procedures require careful monitoring of contractor compliance and careful and complete documentation and filing of contracting decisions and actions.

At least some of the CIP contractors were required to comply with the following:

- Contract Works Standards Act of August 13, 1962 [76 Stat. 357-360]
- Buy American Act of March 3, 1933 [c.212, Title III, 47 Stat. 1520, as amended]
- Walsh-Healy Public Contracts Act of June 30, 1936 [c.881, 49 Stat. 2036, as amended]
- Service Contract Act of 1965 [Public Law 89-286, as amended]
- Mayor's Order 85-85 of June 10, 1985
- Minority Contracting Act of 1976, as amended
- Other minority and female utilization rate requirements
- Davis-Bacon Act [40 USC 2763.a(7), as amended]
- Copeland (Anti-Kickback) Act [18 USC 374 and 40 USC 276C]
- Contract Work Hours and Safety Standards Act [40 USC 237.330]

Contract files lack evidence that DCPS assured that these compliance requirements have been met. In one instance, the contract file indicates that the contractor failed to pay Davis-Bacon Act wages, and DCPS "set aside the $13,604.41 wage difference in an escrow account for a period of one year to accommodate any employee claim under [the] Davis-Bacon Act ...." (This noncompliance was not discovered through DCPS compliance monitoring. The contractor completed work before seeing the contract document and objected to the requirement.)

The Chief of Contract Administration stated that his office was unable to monitor contractor compliance with the statutory requirements during contract performance, because his office operated in a crisis mode daily.

DCPS's response to our draft audit report stated that Section 2561 of Public Law 104-134, *Omnibus Consolidated Rescissions and Appropriations Act of 1996*, exempted DCPS from most of these compliance requirements until April 24, 1998. Our analysis of Public Law 104-134 indicated that the subtitle in which Section 2561 resides ceased to be effective as of November 15, 1996, the day the Board of Trustees was designated responsibility for DCPS facilities. Whether or not the subtitle's waiver provision outlived the subtitle, the requirements listed above were, in fact, included in solicitation number 050-AA-04-0-7-SS which resulted in 11 contracts covering 37 of the 57 DCPS-managed projects. Whether these requirements were also included in the remaining contracts is unclear from the contract file contents.

The impact of not monitoring compliance with these requirements is difficult to assess. This impact is exemplified, however, by the situation involving the Davis-Bacon Act, noted previously. The contractor was ordered to proceed and, in fact, completed the work before a contract was executed. The contractor was unaware of Davis-Bacon Act wage requirements, and DCPS had to take extraordinary steps to resolve the resulting dispute.

Our review of 31 contract files covering 57 DCPS-managed projects showed that the contracting process was poorly documented, and files were poorly maintained. Even though none of the contracts has been closed, much of the information necessary to document the observance of sound procurement and contract management procedures even for unclosed contracts was missing from the files. The results of our search for documentation in the 31 contract files covering the 57 DCPS-managed projects are on Table 1.

Sound management principles dictate that clear and complete records be maintained of contractual actions and decisions surrounding selection, award, and administration of contracts. FAR Subparts 4.801, 4.802, and 4.803 establish the requirement for maintaining complete contract files and stipulate the contents of contract files.

The disorganized and incomplete files precluded a determination that proper procedures were followed in the selection and award process. Further, incomplete files may result in confusion about contractual actions such as change order approvals and funds availability and obligation. Finally, the disorganized files will make it difficult to review and resolve disputes (if they occur), make contractor payments on a timely basis, and close out contracts in an orderly manner.

DCPS personnel have said that it is premature to expect contract files to contain complete information. We did not expect contract files to have complete information. We expected them to have complete information on all decisions and actions that had taken place up to the time of our audit.

Mr. Chairman, that completes my prepared statement. We will be happy to respond to any questions you or other members of the Subcommittee may have at this time.

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Table 1
Information In Contract Files

Attribute of Interest	In Contract File	Not In Contract File
Government's estimate	27	4
Evidence of advertisements of the procurement (or manner of potential contractor selection)	13	18
Evidence of certification of funds available for base contract	26	5
Evidence of certification of funds available for change orders	0	14
Evidence of evaluation criteria to be used	2	29
Completed bid forms attached to DCPS Form 0076 for winning bidder	12	19
All required representations and certifications for winning bidder	14	17
Bid bond forms for winning bidder	7	17
Performance and payment bond forms for winning bidder	19	5
Required declarations for winning bidder	14	17
Summary of bid opening results	14	17
Evaluation of winning bidder responsibility	2	29
Evidence of all evaluation results	1	30
Clear evidence of cost and price analysis	1	30
Evidence of all negotiations and discussions with offerors	2	29
Evidence of award justification and approval by procurement official	28	3
Lists of all subcontractors used and evidence of DCPS approval of all subcontractors	1	23
Complete contract and all modifications	8	23
Invoices and evidence of approvals and payments	15	16
Progress monitoring and inspection reports	0	31
Evidence of technical evaluations of modifications/change orders	3	11
Evidence of procurement evaluations of modifications/change orders	0	14
Evidence of DCPS determinations that contractors complied with the Davis-Bacon Act and all other applicable laws and regulations	0	31

Mr. DAVIS. Thank you very much. Let me walk through the funding issues. Dr. Brimmer, you addressed them earlier. It is really critical in terms of how you plan, in terms of how much money you have available and when it's available. It has been subject to a lot of discussion here on Capitol Hill in other committees.

As I understand, the capital bond sale was conducted on May 27, 1997. That was approximately about $20 million. There were funds at the Control Board. Those funds were at the Control Board on June 2nd, and in Mr. Stephenson's testimony, they were notified of the $20 million available in late June and requested by the schools July 14th. That is what the testimony is going to show. That is a lag of about 6 weeks. So it is a 3-week notification, just notifying the schools they had the money available.

Now, Dr. Brimmer, do you know when the public school system was notified of the availability of the $20 million; if there was a delay? If there was a delay, why did it happen, when they desperately needed the money available for obligation?

Mr. BRIMMER. First, the schools started off——

Mr. DAVIS. They had $11.5 million carryover.

Mr. BRIMMER. They had $11.5 million carryover from the 1996.

Mr. DAVIS. Correct. They also had $18.25 million from Connie Lee.

Mr. BRIMMER. Next, the Connie Lee funds were available on February 27, $18.25 million. The funds for the general obligation, from the 1997 general obligation bonds were available on June 2, 1997.

Mr. DAVIS. Right. But when were the schools notified and able to obligate those dollars? That's a critical question. A period of time, I might add, when every week was counting. Schools were delayed 3 weeks to get things done. If they had had that money 3 weeks earlier, who knows.

I think that's the fundamental question here. And the testimony today appears to be conflicting on that.

Dexter, if you want to come up, please sit here, and Dr. Brimmer, this is an important question to get on the record. We're looking forward, not in the past. We want to try to understand how this occurred.

Mr. BRIMMER. Mr. Chairman, I have an exact chronology. I want to locate it.

Mr. DAVIS. Sure, please take your time.

Mr. BRIMMER. And put it into the record, if you will give me a minute, please.

Mr. Chairman, the question you asked, as follows: As I said, the Connie Lee funds were received February 27th and made available—made available at that time. The public schools loaded into their system $29.75 million in April.

Mr. DAVIS. Correct, April 14. Now, that was money from the carryover from Connie Lee. My question says that the bond money that was available in early June through the Control Board evidently had a waiting period before the school authorities were notified so that they could act and obligate that. At least that appears to be what the schools are going to testify to today. And I wonder if you have any information on that as to why there was a delay.

Mr. BRIMMER. The funds come to the Control Board and the ultimate users of the funds are notified that they are available. We pay out funds, make the transfer of funds, when the institutions, when the agencies request them.

Mr. DAVIS. I understand that, but when did you notify, if you can try to just take a minute, when did you notify the schools that you had the money?

Mr. BRIMMER. I'm told we did it immediately, on the date of receipt.

Mr. DAVIS. So on June 2nd.

Mr. BRIMMER. The day it was available, they were told it was available.

Mr. DAVIS. Who was told?

Mr. BRIMMER. In this case, the schools were told.

Mr. DAVIS. Do you know who told them? Who in your shop told who in the schools?

Mr. BRIMMER. Dexter manages this. Dexter, was it the CFO? The CFO, which is the usual procedure. The CFO.

Mr. DAVIS. The CFO of the schools?

Mr. BRIMMER. Yes.

Mr. DAVIS. I think he'll get an opportunity to testify.

Mr. BRIMMER. The CFO for the city is informed, which is our contact. The CFO for the city, the chief financial officer is Tony.

Mr. DAVIS. Tony Williams. He's here. So he knew June 2nd. But who told the schools on June 2nd that this money was available and they could come down and pick up the check and obligate the money, do you know?

Dexter, you're not under oath. I'm going to have to swear you in if you say anything, or you can tell Dr. Brimmer and he can answer.

Dr. Brimmer, we will allow Dexter to tell us in a minute, but I think what we're trying to understand is whether the supplemental was needed. It was entered about this time, and we need to understand the flow of cash that was available to the school system, in which so many different questions were asked. We have heard testimony about where in the procurement cycle you could bid these out and it was going to affect the total school system. I know we're back here 6 months after the fact, but it is important we know on the record what happened so that we can learn from that experience.

Mr. BRIMMER. Mr. Chairman, you are really asking a question about the operations not of our office but the operations of the chief financial officer of the city and the operations of the schools. From a letter——

Mr. DAVIS. I am. But understand this. On June 2nd the money was available to the Control Board. We know that. You have testified to that. That's a fact. The money didn't get over to the schools until sometime later, 6 weeks later. It appears from Mr. Stephenson's testimony—we will allow him to testify when he comes up, he hasn't testified yet, but just from his printed testimony given to us in advance—it was 3 weeks later until they really knew the money was available to them.

So there is a 3-week gap in terms of them being able to have the money available for contracting it out and obligating it, and that could delay the procurement cycle. And the schools opened 3 weeks later.

Mr. BRIMMER. Mr. Chairman, the money never goes to the schools or to any other agency. The money goes to the city's chief financial officer.

Mr. DAVIS. Let us say it never touches the schools. The question is, when did the schools know they could go out and contract and obligate this?

Mr. BRIMMER. Mr. Stephenson has stated as follows: He says that in early July, the schools—he was informed that the $20 million in funds would be available.

Mr. DAVIS. That is a month after they were actually available.

Mr. BRIMMER. Well, but he was informed by the city CFO. He works for the city CFO. He is—he reports to Tony Williams. So he was informed by his own superiors.

Mr. DAVIS. In July?

Mr. BRIMMER. In early July. How they did that in that order——

Mr. DAVIS. The point is that you didn't notify the schools because that is not your job.

Mr. BRIMMER. Our job is to make the money available to the CFO, first, when the money came in, available to us and in very early July.

Mr. DAVIS. It came to you early June?

Mr. BRIMMER. It came to us in June. The CFO for the city was informed immediately. Then the CFO then informed the CFO for the schools in early July. Why that was the case I have no idea.

Mr. DAVIS. That is all you can testify to. If that is your testimony, that is fine. That is all we are trying to understand. Maybe that had no ramifications or maybe it delayed the whole process a month at a time when the schools could have used that month. I think that is what we want to determine here. I am sure the GAO will be looking at that and will be issuing a report sometime in the future, but that is what we are trying to get.

Mr. Cotton, thank you for being here today. Some people seem to believe that your report questions the quality of the work performed and the oversight of that performance. I do not find that in your report. Rather, you point out that the management of the procurement process was lacking. Is that a correct interpretation and do you have any comment on that?

Mr. COTTON. Yes, Chairman Davis. That is accurate. We did a little bit of work at the capital improvement office looking at the project inspection files. Those were files that we understood were maintained by DMJM. Those files appeared to be well-organized and reasonably complete. The only potential concern with respect to that project inspection process and possibly quality was an indication in some of the files that we looked at that contractors were allowed to proceed with the construction work before they had gotten their design approvals. But other than that we did not see any problems with design or quality.

Mr. DAVIS. I have also seen and heard and it has been reported that your report, states that there was a $7.2 million cost overrun or that the program cost $7.2 million more than it should have. I read your report and that is not how I read your report. Right on page 2 you say, the District of Columbia public school officials estimate that the extra costs are about 30 percent. Based on these officials estimates, the extra cost may have been $7.2 million or more.

So you actually got this estimate from the District of Columbia public schools officials and you worded it just the way they told you?

Mr. COTTON. Yes, sir.

Mr. DAVIS. In addition to that, the $7.2 million is not an overrun or it is not alleged waste; it is a guess as to what the public schools may have had to pay as a premium for the conditions that it was operating under, the court orders and everything else. Again, these are their numbers. It is not some number somebody went through and audited and found; is that correct.

Mr. COTTON. That is correct.

Mr. DAVIS. Actually the $7.2 million number doesn't mean anything. It is just a guess and doesn't relate directly to a specific overall calculation of what the program should have cost, does it?

Mr. COTTON. We did not attempt to measure the excess cost. I have been taken to task for not using a $20 million plus number. We know there is a dispute about the excess cost. We also understand that the General Accounting Office is focusing specifically on that issue.

Mr. DAVIS. Let me read you a quote from a newspaper article: The shoddy contracting system used when D.C. school officials spent millions of dollars for emergency roof repair last year put honest school employees in compromised positions and led to $7.2 million in additional costs as the work was rushed to completion, according to an audit released yesterday by the D.C. Financial Control Board.

Is that accurate?

Mr. COTTON. I think I read that article and I think you read it correctly, yes, sir.

Mr. DAVIS. So it is not, the article is really not——

Mr. COTTON. I think that is a mischaracterization of what we said in our report.

Mr. DAVIS. I just wanted to get to that. Thank you very much. Mr. Cotton, there seems to be some misunderstanding of the role and the responsibility of the auditor as it unrolled in this instance. For example, could you explain to the subcommittee the role of an auditor in making judgments about factual findings, whether they need to be included in an audit? I am particularly interested in your responsibility to report facts as you find them and to raise issues where the potential exists for abuse.

Mr. COTTON. One of our responsibilities as auditors is to look at the control systems that are supposed to be in place and adherence to those control systems in practice. When we see problems in that regard, we have a responsibility to call that to management's attention and recommend corrective action. An audit is based on an assumption of cooperation by the people being audited and we conducted ourselves accordingly.

Where we saw facts that we couldn't independently verify and we thought those items needed to be mentioned in the report, we attribute those to the source. Where we could verify underlying facts, we would accept those facts and present them in our report.

Mr. DAVIS. On page 2 of your report, where you discuss the existing potential for abuses, you conclude by stating, "These conditions place honest personnel in compromised positions where their actions and decisions become suspect."

Isn't that one of the major purposes of procurement rules and processes, to protect the employees as well as the public interest? If you could give us a brief description of why procurement rules have evolved the way they have. I know you are a writer and a lecturer and a writer on procurement policy for the AICPA.

Mr. COTTON. There are two reasons for a sound system of internal controls in any environment. One is to protect assets from misappropriation and the other is to protect honest employees from unwarranted suspicion of their actions and decisions, and it is that latter reason for controls that we sometimes overlook. In a procurement environment, the need for controls is even greater because by definition you are spending large amounts of money and any time you have a situation where there is large amounts of money being spent, it attracts people that may have less than honest motives. They may be, if given the opportunity, may be inclined to misappropriate those assets.

Mr. DAVIS. Thank you. Dr. Brimmer, when the Control Board declared an emergency in the District's public schools on November 15, 1996, what was the expectation and what guidance was given to General Becton as to facility repairs and procedures to be followed in order to achieve stabilization and safety of the school facilities and eliminating the fire code violations?

Mr. BRIMMER. First, Mr. Chairman, when we issued that order, we included in it, in paragraph 14 of the order, a statement which said, we expected the board of trustees to adopt standards, procedures. We also told them that they could use the city, the old school board standards in the interim. But we clearly indicated that our expectation was that they would adopt rules and procedures and guidelines themselves. We even sent to the schools a copy of our own procurement regulations. We also recruited some pro bono legal assistance to help them work out their regulations. In checking back, it appears as though the schools did not adopt, the board of trustees did not adopt a separate set of regulations. I have been told by the schools that in the meantime, in the absence of a new set of regulations, de facto they had been using the May elements of the regulations which the elected school board had in place. That is my understanding.

Mr. DAVIS. Thank you. The Control Board allowed the CEO to enter into such contracts as he or she considers appropriate. What was the intention or the expectation as it relates to procurement procedures, regulation and process? Was there discussion with General Becton or the emergency board of trustees relative to the statutory requirements to follow Federal procurement procedures for capital projects unless alternative procedures were specifically adopted?

Mr. BRIMMER. We fully expected them to follow the procedures. First, we expected the trustees to adopt procedures. And we even suggested the form they might take and guidelines they might take and of course then it was expected that in making procurements and contracts the CEO would follow those guidelines.

Mr. DAVIS. Why did the Control Board agree to after-the-fact review of the contracts for the repair program? What was your understanding and expectation as to the process that would be followed?

Mr. BRIMMER. First——

Mr. DAVIS. Would you have taken additional or different steps if you were aware that the prequalification process had failed?

Mr. BRIMMER. We had worked out with GAO in late 1996 some guidelines for providing for prequalification on the projects they were doing. So that is one set of circumstances. With respect to the emergency activities during the summer, there was an understanding and in fact there is a letter, written correspondence, between the executive director of the Control Board and the COO of the schools in which it was spelled out that we were giving, agreeing to a post-signing review in order to speed the procurement process. But we also said that we expected the guidelines to be followed and that it would be monitored. They were not given—they were given relief to save time but they were not relieved of the responsibility to follow careful guidelines. That is in a letter in writing in mid-July 1997.

Mr. DAVIS. Two other questions, then I will pass it over to Ms. Norton. Are you aware of any disagreements between the public schools, GSA and the authority over control of the funds that caused problems and delays for GSA and ultimately GSA couldn't do some work that the schools wanted to do?

Mr. BRIMMER. There was a divergence of views. In the early days, GSA did take responsibility to help the schools' planning and so on. At one point, and this is at the time when there was $11.5 million available, GSA requested that the funds be transferred from the authority to GSA. This means that GSA would become the paying agent and the manager of the funds. That——

Mr. DAVIS. That is the carryover money?

Mr. BRIMMER. Yes. And our view was that that was not necessary. First of all, the Congress has mandated the Authority to receive and manage the funds. Second, we did not see any operational need for the GSA to have control of the funds. When they presented their need for funds, they were properly transferred. In late 1996 or early 1997, I believe some $6 million or so, maybe accumulating to $8 million, was passed over to GSA.

Mr. DAVIS. In fact, by keeping them in your accounts, you are earning interest on them and it helps pay for what you are doing. If you give it over to GSA you lose the interest. Isn't that the fact of the matter?

Mr. BRIMMER. That is true; not only with these funds, that is true of all funds.

Mr. DAVIS. You said that the Connie Lee money was at the Control Board in February and yet the funds weren't listed as available until April 14th. Can you tell me what the money was doing over there at that time? In between, did everybody know it was available? Was it being used? This was the first time I heard, February, that the money was available.

Mr. BRIMMER. Mr. Chairman, not only did we inform the CFO, we even put out a press release and the First Lady, everybody. The funds were available. They were known to be available, and the same procedures were to be followed.

Mr. DAVIS. Did you send a press release to the schools?

Mr. BRIMMER. Mr. Chairman, just to show you how fast an impression can get mixed up, the check was presented with the First Lady standing by.

Mr. DAVIS. I remember.

Mr. BRIMMER. And the schools. We were all together. We walked through the schools together. We talked about the project. We talked about the need for decent funds. Yes, everybody was informed and knew.

Mr. DAVIS. But they sat there basically unencumbered and unauthorized.

Mr. BRIMMER. Mr. Chairman, we hold all of the funds.

Mr. DAVIS. I do not think the schools did anything with that in terms of authorizing this money until April 14th.

Mr. BRIMMER. Mr. Chairman, again, the schools, like every other spending unit in the city, informs, the message comes to us. We do not initiate the request.

Mr. DAVIS. I understand. I am not trying to go after anybody. Now look at it from our point of view. We are out of the loop. You have members, you have a Control Board coming to Congress saying, we need more money, we need more cash. For a 6-week period of time you have Connie Lee money, $18.25 million lying around that the schools haven't obligated. Then we have a 3-week period that another $20 million bond sale, where the money is not being obligated, and you are up here asking for money. That is where it strikes me we need better communication on this. I think we are going to have to do better.

I now yield to Ms. Norton. I know she has some questions.

Ms. NORTON. Thank you, Mr. Chairman. First, may I acknowledge that Council Member Hilda Mason has come and we are pleased to have her. She was a member of the Council of Education for many years and worked very diligently on D.C. education issues. May I also say, Dr. Brimmer, that the Everybody Reads program is a very good and important initiative that the D.C. public schools have begun. I have sent a Dear Colleague to Members and their staffs asking for volunteers so that the goal of Everybody Reads, that students can read by the end of the third grade, will be accomplished. You need tutors apparently who are willing to read with second grade students twice a week for 35 minutes. We believe we will be able to get—we have even had Members of Congress, I think we will be able to get staff members to volunteer in this program. I think that program, the goals you have set for performance by students, the year round school, these are the kinds of initiatives that I think parents have long been waiting for. I want to congratulate you and the school system for moving forward with concrete programs of that kind that we are sure can make a difference. May I also say that the program that started on a temporary basis when the schools were in closing, we have now made permanent. There were 250 students who got internships and they so impressed Members and they seemed so enthusiastic that I have asked Members to participate in a permanent D.C. high school internship program. We have only begun this now. So far, they begin in February. We have 58 students in 45 offices and more calling every day. We think it will be valuable to D.C. students not only to work in the offices of Members of the Senate and House on a volunteer basis but also to be able to put that on their college application forms. So we are pleased that Members are indeed responding to that program as well.

May I begin by commending the Control Board for ordering a prompt audit. Again, this is a new culture in D.C. public schools. Do not fend off the criticism. Find out what happened so you can do something about it. I think that is a very important initiative the Control Board itself took without prompting by anybody except their own sense of what was appropriate.

Before I begin, may I ask you, Dr. Brimmer, if you are beginning to have conversations outside the Control Board and consultations with others on the *Shook* decision?

Mr. BRIMMER. As you noted, we are talking with all the board members and are fully engaged. We have had a number of conversations, exchanges with the board of trustees.

Ms. NORTON. Do you intend to consult with elected officials before you reach any conclusions about how to proceed with respect to the *Shook* decision?

Mr. BRIMMER. I am already engaged and so are some of my colleagues in having discussions. I have personally had discussions with several of the Members of the Congress. You and I had a brief conversation. I have been seeking opportunities to talk with the chair of this committee, and we have been missing each other. We are trying to get together on it. We not only will have, we are having discussions.

Ms. NORTON. I was referring to locally elected officials, the school board members, the council members, the Mayor, who represent parents and residents in the city directly.

Mr. BRIMMER. We will have such discussions.

Ms. NORTON. Thank you.

Mr. BRIMMER. Let me say one thing now because this issue has been raised. With respect to the elected school board, the question of what the school board will do vis-a-vis an appeal and so on, that is still an open question. Here, I am not a lawyer, but their lawyers have had some conversation with our lawyers. I am told, I have been advised that we, that I should wait to see the course of those discussions at that level before I would seek to participate in discussions with the principal. And those discussions are still going on.

Ms. NORTON. Dr. Brimmer, one of the matters that concerned us was the report of the auditors that there had been a lack of cooperation or at least extensive cooperation as they were doing the audit and the scope of the audit. Was this situation brought to your attention during the course of the audit and, if so, what action was taken to achieve greater cooperation? Has any action been taken since to assure cooperation in an audit that the Control Board itself ordered the school system to participate in?

Mr. BRIMMER. The question of cooperation or lack thereof stood out in the auditors' report. We looked at it. We have talked about it and I have went back and reconstructed as follows. First, at one point into the audit, our staff was informed that some files which had been provided to the auditors had been returned to the schools. The schools had retrieved them and they were therefore not available to the auditors. Our executive director looked into the matter, had a conversation with the schools immediately and the files were returned to the auditors. I was struck also by the question of a lack of cooperation. In our conversation with the auditors, after the report was in our hands, we asked them whether there was a time horizon during which there was cooperation and then lack of cooperation. We got the response which said that until the draft went to the schools, probably sometime around December 9th or thereabouts, until then there had been cooperation but that after that date or thereabouts there was a change in tone. The other item that we focused on, which suggested a lack of cooperation, was at the signing of the certification letter, the specification letter. I understand the school authorities had been advised by their counsel that the draft of the—the particular draft of the letter should not be signed. Our counsel, our advice to the school authorities was that it would be better to sign that letter, a letter, and to do so quickly. It was my understanding that they were in the process of reviewing and drafting a new letter to be signed at the exact point where the report was put to press. So the auditors' report came out with the draft in it, the draft of the letter which had been a source of concern. As a matter of fact, the school authorities, General Becton, in the meeting we had yesterday with him, talked about a number of other things, not just that particular thing but about the schools, in particular talking about the future or how they would be operating, signed the letter in my presence yesterday. So he also gave me copies of certification letters which several other persons in the school system had signed. So there is a signed certification letter as of today. That is my——

Ms. NORTON. Mr. Cotton, did you bring this matter to the attention of any staff or others in the Control Board in time to get this document signed?

Mr. COTTON. We—when we gave the draft management representation letters to DCPS, we gave copies of those drafts to our point of contact at the Control Board. We also, when we——

Ms. NORTON. Who was that?

Mr. COTTON. That was Allison Farris. When we learned that DCPS officials were not going to sign the management representation letters, we included in a draft of our report essentially what you see in the final report, the qualification along with the text of the letters not provided. And we gave that to the Control Board on December 23rd.

Ms. NORTON. Dr. Brimmer, I think you will find that Members of Congress would expect that this is the kind of matter that would have been mediated quickly so that we do not have the letter signed weeks after the report is issued. You did the right thing and in doing an audit, you audited promptly. You got an auditor promptly. You have a—you have a leadership that is the leadership you have chosen. I know you well enough to know that if you tell them sign the letter, it is going to get signed the next day, not after the report is in. I can't understand the hiatus here.

Mr. BRIMMER. Excuse me. We discussed this matter with the schools promptly. Yesterday was not the first time we had a conversation. I said the letter was signed in my office yesterday. I didn't say we had no conversations.

Ms. NORTON. What led to the delay, if the board, which has, which is all powerful here, made it clear that the letter should be signed, how come it was just signed yesterday, the day before this hearing?

Mr. BRIMMER. The letter, the CEO is the one who will answer the question precisely as to why he behaved the way he did. I am telling you, the question was, did we discuss this question with the schools. The answer is yes. Not just yesterday but immediately when we learned about it. And——

Ms. NORTON. And they refused to do what you said to do?

Mr. BRIMMER. The counsel we gave—well, first, we pointed out that such representation letters are a traditional requirement of ordinary auditing practices. They knew that. We emphasized it again. We even encouraged them to work hard to see that they could get a representation letter that they could sign.

The basic point is that the school authorities disagreed with the content of the draft letter. And that they had to work out.

Ms. NORTON. Did you disagree with the content of the draft letter?

Mr. BRIMMER. I had no opinion, no comment on the content. After all, this was representation as to what the school authorities told the auditors. I had no idea what that was.

Ms. NORTON. Who is in charge here? If the auditors can't get cooperation from the people that you have ordered to be audited, who are they supposed to go to to get that cooperation?

Mr. BRIMMER. We cannot afford, even—first, I wouldn't want to try to force the management. After all, it is a management representation. The letter says what purported, what management said to the auditors, what information management provided to the auditors. This is a matter which the management has to agree as to what it did or did not provide. The key point is we did discuss with the school officials and pointed out the desirability and the necessity to have a representation letter. But, Ms. Norton, again there is no way for us to force management, and I wouldn't try, to sign a stipulation of representation with which they disagree.

Ms. NORTON. Well, Dr. Brimmer, I have to tell you, given the authority Congress has given you, you can force elected officials not only to do anything you want them to do and you can force elected officials and have forced them to do things they did not want to do, and you can force out whole elected bodies. So it is very hard for us to accept the notion that you shouldn't in fact be able to compel one of your employees to cooperate with an auditor you have hired.

Mr. Cotton, did you seek to mediate this matter with anybody in the Control Board rather than let it go to print with a necessary document unavailable and unsigned?

Mr. COTTON. Let me first explain, if I can, the purpose of a management representation letter. We provide these letters to management at the end of the audit so that there is not a misunderstanding as to what we think we have been told during the audit. When I gave the letters to the CFO at DCPS, who was our point of contact, I indicated to him at that time that if there was any question about the letters I would be glad to discuss it. I found out about a week later, when I went back to find out where the letters were, that he did not understand the letters. He told me that he thought that it would be inappropriate for him to provide a blanket statement, for example, that he had showed me everything I wanted to see. I pointed out to him that a very operative phrase in that letter is "to the best of my knowledge and belief." And that is all we are asking those people to affirm in writing is that to the best of their knowledge and belief we have seen everything that is important and material to the audit.

When we did not get those letters, we were under a timeframe that we thought was important. We put the draft report in place. Sometimes when this happens to an auditor, if you put the qualification in the draft report and the text of the unprovided management representations, that in and of itself is enough to get management to understand the need to provide the letters. I met with John Hill the Thursday before our report was released in final form, and he was attempting at that time to get management at DCPS to provide the letters. I got a telephone call from the CFO at DCPS's administrative assistant about a half hour after the report was released to the public. She at that time told me she was looking for the letters and couldn't find them and that she indicated that they had decided at that time to sign them. By then it was too late. The report had been distributed to the media.

Ms. NORTON. Well, I have already indicated that I think this matter could have been dealt with and Congress expects that there will not be a repeat of this matter. All you have to do is get folks together in the same room. I think you can figure this one out.

Mr. Cotton, do you believe that there are significant amounts of time and money that might have been saved had the school system relied more on the GSA to carry out some of the work with the roofs and boilers?

Mr. COTTON. Well, Delegate Norton, I am afraid I do not have a definitive answer for you there. I listened to what Mr. Lawson said and he indicated that they could have helped some but he didn't think that GSA could have done the job that DCPS did. We spoke with some of——

Ms. NORTON. In a 60-day period? I mean, do not answer the question the way he stated it. I am talking about at the time the money became available and they had 40 roofs to do and not 60 days but a somewhat longer period of time, in your judgment, would they have been better off if they had delegated some of that work to the GSA to do in the way they had done the 10 roofs that were in fact done in a timely fashion?

Mr. COTTON. That is certainly something that occurred to us. We discussed that with GSA. Some of the GSA people told us that they would have done more had they been asked.

Ms. NORTON. Dr. Brimmer, Congress shares a very big part of the blame, in my judgment, for this roof mess. The Control Board, I think, correctly realized it would need more money. The Congress had spent a lot of time talking about schools, indicating that schools were the most important thing in the district and even saying it wanted to help on schools. And it seems to me you did the correct thing to come and say, when the cost of repairs was $86 million and you had $50 million, to say, would you mind putting up or shutting up. And to their credit there were Members who were willing to come forward, and I think Senator Faircloth deserves credit for trying very hard to get an agreement with the House. That ultimately became impossible. But I do believe that Congress shares part of the blame here, at least with respect to the amount of money that became available. Then there is the question of whether or not if all of that money had been made available it could have been used given what happened with the money that was available. So I guess my question is, when it became clear that you didn't have $86 million but you had to cut back to $50 million, was there a downsizing of the plan that occurred that the Control Board found satisfactory, or did the—was there a failure to in fact, perhaps I should be asking this of Mr. Cotton, was there a failure to in fact cut back to a manageable plan when the money that you anticipated was no longer available?

Mr. BRIMMER. Ms. Norton, let me respond to that. I will do so by drawing on a response to a series of questions that Chairman Davis had put in August. First, what was the source of the $86 million target, the plan to spend $86.6 million that consisted of the emergency spending for 1997? First, the school system had worked out a three part plan. The first part was the plan to cover fiscal 1997 to fix those facilities in order to abate fire code violations. That was the main thrust. There was another piece that was to fix plumbing and so on. The key point is this, when they learned they could not, would not have the $86 million available, they then revamped that program. What did they do? They decided to concentrate on the roofs. They eliminated that part of the plan which was to replace boilers and to make the improvements to meet the Americans with Disabilities Act. Why did they concentrate on the roofs? Because the task was to abate the fire code violations and the roofs were the source of much of the water leak that led to the exposure to electrical fires. Once they made that decision, they were then in a position to see what they could do to get contracts.

The other point I want to make with respect to availability of funding, they could not obligate, they could not enter any contracts, they could not sign any contracts, a part of the general city's requirement, unless they had the money in sight; in other words, unless they knew they had the money and not will have, not promised but had. Otherwise they couldn't issue one contract. And they did not have that assurance until July. That is when they started issuing the contracts.

And in the course of a few days, a week at the most, between July 18th and August 1, they let the host of contracts to fix the roofs. That is why the lack of availability of funding authority, of spending authority, was a major obstacle to getting this work done. Even though they had difficulty negotiating and identifying contractors, which you heard that problem described in some detail, until they had the funds they could not obligate. So given the task to abate the fire code, they had to concentrate on the roofs. And that is why, Ms. Norton, they decided they had to go for that many roofs because the judge had indicated she would not let the schools open if there were any fire code violations.

Ms. NORTON. Yes, and they were working in good faith to try to see that they didn't have them by doing the roofs and there is every reason for them to have wanted to do the whole roof rather than patch up the roofs. The real question becomes whether or not when they saw they couldn't, a new judgment should have been made. You talk about not until money is in hand. That is a very important matter that you raise. But again we go back to the $20 million that became available on June 2nd not loaded into the financial management system until July 14th, so that there is some time loss there that seems unnecessary and implies that there is a communication problem between the school system and the central or at least the CFO's office where the money apparently would come or their own school CFO. We will have to inquire about that——

Mr. BRIMMER. All right.

Ms. NORTON [continuing]. On the next panel. Dr. Brimmer, could I ask you—first, let me thank you that when you came the last time it was just before Christmas, a few weeks before Christmas. I asked you about the 7-year delay that had accrued in paying the cafeteria workers, the lowest paid workers in the school system, despite two arbitrator's awards. And you said that they would get some of their money at least before the end of the year and apparently there was some money that came forward before the end of the year. Could you indicate to me what the status is of the rest of the money that is due these workers?

Mr. BRIMMER. Yes. I would again ask you to put this question to General Becton because he is the one who is in the midst of these negotiations right now, but it is my understanding of, first, the commitment we made is still there. We have said that we recognize that the award was legitimate, that it was an obligation of the school system. It is still an obligation and we have asked General Becton to negotiate with the unions and work out a plan because we have said, and I have said to the general, we could, hopefully, the total award could be paid out over a 3-year period rather than one lump sum. There is no way for us to find in one lump sum the full amount of the obligation. Hopefully we will spread it out. I understand negotiations are going along and there is a real possibility that that will happen. We will, as I said earlier, do whatever reprogramming is necessary once they come to us with a settled amount that is within the ballpark of what we could do. I understand those negotiations are still going on. I was told as of yesterday that they were close to reaching a resolution.

Ms. NORTON. I am very glad to hear that. Thank you. I am not sure you are aware, Dr. Brimmer, but in fiscal year 1997, the total amount of special awards given to District employees who apparently do not get bonuses was in fact given to 76 employees and the total amount was $101,581.

I seek clarification on the policy concerning bonuses. The reports earlier had indicated that General Becton received $30,000. These are signing bonuses, I believe. Dr. Ackerman, $25,000 and Dr. Brooks, $15,000. When they were asked about these bonuses, General Becton said that they had been approved by the Control Board and the emergency trustees. Could you clarify on what basis the Authority would have concluded that bonuses were warranted, bonuses of this magnitude were warranted and what your policy, and whether you have a policy for District of Columbia employees of signing bonuses that will be continued in your——

Mr. BRIMMER. First of all, with respect to the school bonuses, we did not, because we were not asked, we were not required, we were not asked and we did not approve, we did not approve any bonuses. We did not approve any salaries for any of the people who brought this except for General Becton. His compensation was arranged back in 1996, in November, when he was engaged. There has been no adjustment to his compensation at all. The only thing we said at that time was that he would have an opportunity to be considered for a performance quota ex post. There has been no evaluation with that in mind. So there has been no adjustment in General Becton's compensation.

Now, with respect to the compensation and bonuses for school system people, my information is that, first, that General Becton established those compensation packages and it was my understanding that these would be approved by the board of trustees. Let me repeat, they were not sent to us. There was no reason, no obligation. They were not required to.

Now, with respect to the composition, I understand that, and again General Becton can give you all the details on this, that General Williams was engaged with an annual salary of $120,000, that there was a signing bonus of $30,000. I have been told, and I have been briefed on this, that in the accounting for that there were mistakes made with respect to grossing up; that is, we ended up essentially paying the taxes applied on that.

I understand that Mrs. Ackerman's compensation was $120,000 and she had a signing bonus of $25, and so on. But again, General Becton decided those approvals and they were approved by the board of trustees. As to my own attitude and the view we take, I believe that the signing bonuses are an appropriate component of compensation packages, that they should be geared to what is necessary to align the compensation being offered to meet the market. But that is a view I have had of compensation all along. It is my understanding that in the Federal Government, the Federal Government, signing bonuses are used as a way to help close the differential between what is available as a base salary and the marketplace. In the private sector, it was done all the time. That is where most of my experience has been. Now, with respect to performance bonuses, I believe strongly that total compensation should have an element of risk involved; in other words, some incentive so that—in my own professional work, I have sat on a number of compensation committees and advise on a number of these things and always look for a salary, a performance, some kind of incentive and look at the total compensation. So, yes, I believe we should have, we should make use of a performance and signing bonus. Again, the Federal Government does use signing bonuses, as I said, as a recruitment device.

Ms. NORTON. Well, let me tell you one thing, you have represented that the Federal Government does signing bonuses. This Member is going to look into that because I have never heard that before. So we will find out whether that is done. I would really wonder about that. If so, I would wonder if Congress understood that there are people getting signing bonuses. So that is something that we will look into. Our information is that signing bonuses are rarely nonexistent in the public sector generally, that they are not used in this area where we have some basis of comparison. You have been able to recruit some people to come and do work for the District government in one fashion or another for no pay. But the reason I think that is so is that when a government or an agency is literally down on its knees, if the principals market the opportunity correctly, I think that you won't need signing bonuses for this reason.

An administrator that comes into a place that is as decrepit as this place and shows that she can take care of business will be made for a lifetime. Many people yearn for the opportunity to come to work, one, with a system that is completely broken, so they can show their stuff; and two, in the capital of the United States, I really must say to you that I do not believe that, except in very special circumstances, for example, if the one person that you think can do the job might go someplace else—and then I wouldn't even call it a signing bonus, in order to get the person you may have some increase in pay because that is what the marketplace says they may have to have. But I really do not believe that it is difficult to get people to come to work here in the capital of the United States. I really don't believe it.

I hear professionals all over the District who say, is there some way I can help? I just believe that for the same reason that you wanted to be the chairman of the Control Board, that there are people all over the country that would say, wow, if I could do that in the capital of the United States, I would really be doing something. That is not Philadelphia, that is not Podunk, that is the capital of the United States. The whole world will know that I have done it.

I believe that if in fact the board, including the board of trustees, knows how to market the challenge here and the place, the center of the universe, that they know how to do that, they will have people at their doors, not the other way around.

So I believe a bad precedent has been set saying that in order to come here, we are going to give you some extra money. You ought to pay us to come here, because since the system is broken, you have a free hand now in rebuilding the system. It is a wonderful opportunity for an administrator with any imagination and any guts and any fire in his belly. Most administrators are ships sailing through the night, if only because the system isn't broken, so nobody is going to know whether they were there or not. This system is worse than broken, and I have to say to you that I believe that in almost all instances the people with the right stuff won't need a signing bonus. They will simply need to be able to do their work in the capital of the United States.

So I believe that you will never convince the people who work for this government—the average employees have had no raise since 1994. The lowest paid employees of the school system had to threaten to strike to get what an arbitrator said is due them. Residents are paying the highest taxes and getting the worst service. You will never convince them that the only way you can get competent people to come and work here is to give them a whole lot more money than would otherwise be necessary.

So I urge you to get rid of the notion of signing bonuses, and to use them only in circumstances in which you are willing to document to the public was necessary, and to indicate in writing. Since you are in charge, you cannot pass this off to those who work for you.

In the same way, I have to ask you about performance bonuses. We people hear that the schools did not open on time, but the word is—and so I am going to ask you, is the word correct—that General Becton nevertheless—General Williams nevertheless qualifies for a large performance bonus. They need some explanation as to what the standards are for achieving a performance bonus.

So I am going to ask you whether or not the Control Board has any standards it is willing to pass on. If you are willing to stand behind those who are given the signing bonus, have you any standards you are willing to pass on for how every performance bonus should operate, again, because there is a huge controversy in this city, and it might go away if people understood what the standards were, and then said, "Measured against these standards, perhaps we understand."

So I need an explanation about signing bonuses and whether you think they are going to continue, whether you think they are appropriate. I need an explanation about performance bonuses and what are the standards for awarding them throughout the D.C. government.

Mr. BRIMMER. First, with respect to the terms for employment for the school officials, as I said earlier, those were set by the CEO, with approval of the board of trustees.

Ms. NORTON. You have no responsibility in that?

Mr. BRIMMER. We delegate it to the CEO.

Ms. NORTON. Do you think in light of what happened that you ought to look again at how they have handled that delegation?

Mr. BRIMMER. They establish compensation with approval of the trustees.

Now with respect to General Williams, and again General Becton can give you the details, it is my understanding that as a part of General Williams'—the terms of his employment, they indicated that he would be eligible for consideration for a bonus depending on the amount of savings, the amount of savings which he effected.

Ms. NORTON. He owes the school system money, if that is the standard.

Mr. BRIMMER. General Becton will describe that. I was told by General Becton that with respect to any performance bonus, that he had decided he did not want to be considered for such a bonus at this time. I understand further that all considerations of performance bonus have been deferred until the end of the school year. So it is my understanding that none of this is actively on the table now.

Now, the more general question, what about compensation arrangements, yes, I do believe that the standards ought to be made explicit ahead of time, and they are. In our own case, we are establishing performance standards throughout the provinces under our jurisdiction. One of the things the CEO is working on from the very beginning, it establishes such standards.

So to summarize again, Ms. Norton, I do believe that incentive compensation ought to be a part of the total compensation of government employees. Too, I believe that a bonus is the proper form of incentive compensation, when that bonus is earned on the basis of criteria for performance established in advance. Finally, I believe that entry compensation has to meet the marketplace, and if a signing bonus is an element of helping to meet the marketplace then I think it should be used.

Ms. NORTON. Thank you, Dr. Brimmer. Now, I take it from what you have said that you think what is appropriate is incentive compensation tied to explicit criteria established and announced in advance and awarded only after an evaluation to see whether or not the candidate has met the explicit criteria?

Mr. BRIMMER. That is right.

Ms. NORTON. Thank you very much.

Mr. DAVIS. Thank you. Let me just try to sum up the end and get to the final questions.

I have a letter of September 8, 1997. I know Mr. Lee from your staff has it, Dr. Brimmer. It is a letter to Mr. Tony Williams from Ed Stephenson, Chief Financial Officer. We are going to hear from each of them on the next panel. But one of the sentences, says, "During several conversations in June I was told that because the Mayor wanted to reallocate the bond proceeds," and this is a September 8, 1997, letter, "because the Mayor wanted to reallocate the bond proceeds, the funds from the 1997 capital bonds would not be released until the allocation was finalized."

Does that ring a bell with you? We have been trying to figure out what happened to that 3- 6-week period between when the bond proceeds were available and when they were actually released to the school system.

Do you have any recollection there that you held back releasing the proceeds from the capital bond proceeds because the Mayor wanted to reallocate?

Mr. BRIMMER. No. This is the letter from which I was reading earlier today. No, we had nothing to do with that.

Mr. DAVIS. So, from your perspective, you were not involved? You were not in on that?

Mr. BRIMMER. No.

Mr. DAVIS. Just a couple of other questions.

Mr. Cotton, at the conclusion of the audit, was there any evidence that public funds had been misappropriated or that any illegal activity had taken place?

Mr. COTTON. I think you need to distinguish between direct evidence and circumstantial evidence. I believe we saw circumstantial evidence that opportunities existed for misappropriation of assets. We did not identify within the scope of our audit any direct evidence.

In terms of illegal activities, our conclusion is that DCPS was not in compliance with Public Law 104–208 that required them to follow Federal procurement policies until such time as they adopted their own procurement policies. We also noted an instance with respect to a particular contract where the Davis-Bacon Act was not complied with, and DCPS entered into a separate agreement to assist that contractor if a Davis-Bacon claim arose. We think that agreement needs to be scrutinized.

Mr. DAVIS. Thank you. Let me ask this, should we followup on the opportunities for misappropriation of funds? Is there any followup going on, Mr. Cotton, from either you or Dr. Brimmer, and should that not be followed through on?

Mr. BRIMMER. First, Mr. Chairman, as I indicated, we have asked the Inspector General to review the report and to do any inquiry and recommend whatever he finds.

Mr. DAVIS. I think that is it. That seems a prudent course, Mr. Cotton?

Mr. COTTON. Yes, sir, I think it is prudent.

Mr. DAVIS. The last couple of questions. Is it your finding, Mr. Cotton, that no single well-laid out or recognizable process was followed in designing and contracting out for the repair program?

Mr. COTTON. Yes, sir, that is our finding.

Mr. DAVIS. Did you make an assessment of the number or value that was seen to change orders or contract amendments for individual projects?

Mr. COTTON. Yes, sir, we did.

Mr. DAVIS. Can you specify?

Mr. COTTON. When we began the audit the information provided to us indicated that there had been no change orders. When we reviewed the contract files, we identified approximately $1.9 million in change orders on 14 contracts.

We also found a file at the capital projects office that contained change order requests totaling $916,000 on 10 contracts, but those change order requests were not evidenced in the DCPS contract files, so we don't know whether those were ever processed. And our understanding is from information provided by the chief of capital projects certain change orders at the time we completed our work in December were still being negotiated.

Mr. DAVIS. So did your audit include the projects that were not planned as part of the program, but were required by the judicial rulings in closing schools?

Mr. COTTON. I am sorry?

Mr. DAVIS. Did your audit include the projects that were not planned as part of the program, but were later required by judicial rulings when the schools were closed, or not opened?

Mr. COTTON. I am sorry, I don't understand the question.

Mr. DAVIS. OK. The audit that you did, did this include projects not just that were part of the plan program, but also ones that came into being because of the judicial rulings?

Mr. COTTON. Yes.

Mr. DAVIS. OK. That is all I am asking.

Did you know or can you determine from your papers if the project that you found to have had its cost estimate prepared after the contract had been signed was one of the court ordered projects or one of the plan projects?

Mr. COTTON. It was one of the later ones.

Mr. DAVIS. Court-ordered projects. Would it be normal to have an estimate prepared for a project that was not planned and has to be contracted within 24 to 48 hours?

Mr. COTTON. I would think that would be appropriate, yes.

Mr. DAVIS. Thank you very much. Dr. Brimmer, thank you. Mr. Cotton, thank you, very much. Sorry it has taken so long.

Mr. BRIMMER. Thank you, Mr. Chairman.

Mr. DAVIS. Now we move to our last panel. Some issues were raised on this that we can pursue.

Tony Williams, the CFO for the District, Ed Stephenson, the CFO for the public schools, Bruce MacLaury, the chairman for the Board of Emergency Trustees, and General Julius Becton for the D.C. Public Schools, and General Charles Williams, the Chief Operating Officer for the D.C. Public Schools.

Tony, I know your father is ill, and I know you have returned from California for this hearing. Best wishes, and our prayers are with you. Thank you for your presence.

[Witnesses sworn.]

Mr. DAVIS. I ask unanimous consent that the written statements be made part of the permanent record. As you can see from some of the earlier testimony, we are familiar with your written statements, so be as brief as you can so we will get right into the questions. If there is anything you particularly want to emphasize in your testimony or something you want to clarify, that is fine. At the conclusion, if there is something you would like to add to maybe redirect the questions or something, I want to give you the opportunity to do that.

Let me start, Tony, with you. Please don't feel you have to take the 5 minutes, because we want to get to the questions as quickly as possible. Thank you.

STATEMENTS OF ANTHONY WILLIAMS, CHIEF FINANCIAL OFFICER, GOVERNMENT OF THE DISTRICT OF COLUMBIA; ED STEPHENSON, CHIEF FINANCIAL OFFICER, DISTRICT OF COLUMBIA PUBLIC SCHOOLS; DR. BRUCE MacLAURY, CHAIRMAN, DISTRICT OF COLUMBIA PUBLIC SCHOOL EMERGENCY TRUSTEE BOARD; GEN. JULIUS BECTON (USA, RET.), CHIEF EXECUTIVE OFFICER, DISTRICT OF COLUMBIA PUBLIC SCHOOLS; AND GEN. CHARLES E. WILLIAMS (USA, RET.), CHIEF OPERATING OFFICER, DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Mr. WILLIAMS. Mr. Chairman and Congresswoman Norton, thank you for the opportunity to be here and appear before you and testify on the matter of the school roof repairs. As you noted, our written remarks have been submitted for the record. I have only a few brief comments by way of introduction.

From my standpoint as CFO for the District, I think that—well, I would generally endorse and strongly support the thrust of what I think the questions of the chairman and Congressman Norton are, and those I think revolve around the need for better planning and organization, and the facts of the school repairs are very good evidence of both, in some ways.

The lessons that I take from this are on a number of different things. No. 1, there is a desperate need for our office to provide, to the maximum extent possible, to the agencies all the authority and responsibility that they need in terms of resources to do their job. One of the things that I think this committee will find when the results of the 1997 audit are released is that there has been across the board in a number of different areas underspending by our agencies. I think this underspending by our different agencies is a result of a number of different points of contact and authority in the system that cause congestion and obstructing the flow of funds. Obviously, we saw it in the lack of needed services and products getting to our citizens.

We have since, in fiscal year 1997 and again this year, made an over-effort to ensure that all of our agencies have their full budget authority. In fiscal year 1996 we actually apportioned and allocated funds from a central—on a central basis to the agencies. Beginning in 1997, it was our objective to ensure that each agency had all the resources it needed to do its job. Clearly, in my estimation, humble estimation, that did not happen in this case. I have a number of different reasons I can detail later.

No. 2, I think that there is demonstrated in this episode the need to clearly appoint one designated person as responsible for not only the management of a given process, but the fix-up of a given process, and procurement is clearly one of those processes. In procurement you have program management involvement. Obviously you have to make decisions on what you are going to requisition and what you are going to actually procure. You have the contracting officer's involvement, you have the financial officer's involvement in terms of the availability of funds and the sign-off on disbursements before actual payments are made.

But all of those different players have to, I think, basically pledge allegiance to one entity, one person whose job it is to reform, reengineer, and streamline that process, or else I think it is analogous to trying to fight the Gulf war with five different, you know, silos all trying to get the job done, and it cannot be done, and I think you end up with the results that we have seen.

I think, finally, I think there is a need—we can talk about in terms of this episode all the lessons about planning and organization and control, and I think they are there. But I think there is also a need on all of our parts to accept our responsibilities in this matter, and I put that in the whole area of leadership. I think a lot of attention has been focused on the Control Board and its involvement in all of this. But in my estimation I think it has been the role and job of the Control Board to clear the way for a number of us managers to get the job done, and then it is up to us managers to get the job done, and if we are not getting the job done, to basically admit where there are problems, where there are lessons to be learned, and move forward.

I will give you an example. At the beginning of, I guess this was the last year, I was at a hearing before the Control Board and I was basically dragged across the carpet for the lack, at that time, of progress on the financial management system. Basically they didn't want to hear any excuses. I didn't make any excuses. I could have said that I basically inherited an office with one person, I was in the midst of a financial emergency, and the last thing I had time to do was actually start to build a new financial management system. I didn't do that. I basically accepted responsibility. To the extent all of us can do that rather than getting into this "he said, she said" routine, I think we are all better off.

With that, Mr. Chairman, and the lessons that I take from this, I would be happy to answer any of your questions at the conclusion of the opening remarks.

Mr. DAVIS. Thank you.

Mr. Stephenson.

[The prepared statement of Mr. Williams follows:]

Chairman Davis, members of the Committee, I am Anthony Williams, Chief Financial Officer of the District of Columbia. I have been asked to testify before the Committee today to discuss the issues surrounding the recent audit of the District of Columbia Public Schools (DCPS) by Cotton and Company as it relates to the repair of the schools; discuss the role of the Office of the Chief Financial Officer regarding the funding of capital projects for the DCPS; and to clarify for the Committee when funds were available for capital spending on school repairs. Additionally, I will be glad to answer any questions the Committee may have. I will keep my remarks brief.

The Cotton & Company Audit

While the audit conducted by Cotton and Company examined the procurement and contract management systems the schools used for repairs during the summer of 1997, I would be glad to briefly comment on these items. In short, the audit concluded the following:

- DCPS did not have an effective procurement process in place;
- the procurement of repair services did not meet the minimum statutory or regulatory requirements;

- DCPS did not adhere to a single set of established procurement policies and procedures in carrying out the Fiscal Year 1997 Capital Improvement Program procurements;
- DCPS emergency procurements for repair resulted in additional costs of roughly $7.2 million.

Audit Recommendations

The audit concluded that because of lax procurement and contract administration, opportunities for fraud and waste opportunities were enhanced. The audit recommended twelve specific improvements, including four items of relevance to the financial organization at DCPS:

- DCPS, Congress, and the Authority must work together to assure timely funding and to implement stronger controls and more efficient procedures for paying its bills.
- Ensure that funds availability is certified before contractors are directed to proceed with contract modifications;
- Establish written procedures defining the mandatory process to be followed to ensure compliance with the Anti-Deficiency Act;
- Take other steps necessary to close quickly all contracts, assess liquidated damages where warranted; make equitable adjustments to contract prices where warranted and make final payments in a timely manner.

We are working with the CFO at the schools to implement these recommendations and continue to improve the financial operations at the schools as we have done in the other city agency financial organizations. This includes improvements in the following areas:

- more timely vendor payments
- improved internal controls
- enhanced budget monitoring and execution
- improved capital spending planning and execution

We will continue to make the necessary improvements in the financial operations of the DCPS. I commit to the Committee to continue to work towards that end.

The Capital Improvements Program Process

At this point, I want to move on to discuss my Office's role in the financial operations of the DCPS particularly as it relates to the Capital Improvement Program.

In general, the Capital Improvements Plan and Budget is planned and developed by the Mayor, Council, and Authority and monitored by the OCFO's Office of Budget and Planning (OBP). OBP issues a budget request to agencies for both new capital project requests and changes in existing projects. Following a priority setting framework, the OBP and Capital Review Team recommend projects for inclusion in the six-year plan.

which is then presented to the Mayor, the Council, the Authority, and Congress for their review.

Once the Capital Budget is approved, each agency provides a spending plan that outlines planned expenditures by quarter for the current fiscal year and by year for the out-years. The spending plans, which are updated quarterly, are compared to requests for financing to ensure the appropriate scheduling of financing.

Requests for financing are reviewed for consistency with budget authority and spending plans as well as financial availability. The OBP maintains an average turn-around time of 3 days. These steps are summarized in Attachment 1.

Financing of the School Roof Repairs

In FY 1997, the schools received capital funding totaling $86,541,596. Funds were made available each quarter as follows:

First Quarter. On October 3, 1996, the Authority received G.O. Bonds proceeds, of which $11.5 million were allocated to the schools.

Second Quarter. On February 27, 1997, The Authority received $18,252,080 from the U.S. Treasury from the privatization of Connie Lee.

Third Quarter. On April 14, 1997, the schools requested an FMS budget modification to load $28.5 million in its capital program, which was approved by OBP the same day. In addition, on June 4, 1997, the Authority received $20 million from the June 1997 G.O. Bond proceeds.

Fourth Quarter. On July 14, 1997, the schools requested an FMS budget modification to load the $20 million from the June G.O. Bond proceeds, which was approved by OBP July 22. In addition, on September 8, 1997, the Authority received $36,789,516 from the sale of Sallie Mae Warrants.

These events listed below are summarized in Table 1 on the following page:

- The receipt of capital funds;
- The availability of funds in FMS;
- DCPS' requests to load capital funds into FMS;
- The associated approvals.

TABLE 1: TIMELINE OF EVENTS REGARDING FUNDS AVAILABILITY FOR SCHOOL REPAIRS, FY 1997

Action Date	Action	Reaction Date	OBP Reaction/Result
October 3, 1996	Authority receives $11.5 million in FY 1996 G.O Bond proceeds		
February 27, 1997	Authority receives $18.25 million in Connie Lee proceeds		
April 14, 1997	DCPS requests a FMS load for $28.5 million*	April 14, 1997	DCPS' April 14, 1997 load request is approved by OBP. Financing is available from FY 1996 G.O Bond proceeds and March 4, 1997 Connie Lee proceeds, for the schools
April 14, 1997	$18.25 million in Connie Lee proceeds are available in FMS		
June 4, 1997	Authority receives $20.0 million in FY 1997 G.O. Bond proceeds		
July 14, 1997	DCPS requests a FMS load for $20.0 million		
July 22, 1997	$20.0 million in FY 1997 G.O. Bond proceeds are available in FMS	July 22, 1997	DCPS' July 14, 1997 load request is approved by OBP. Financing is available from FY 1997 G.O. Bond proceeds

- *Total new funding was $29.75 million. Total requested load was $28.5. The difference is a result of new funds unable to be expended for existing debt of $1.5 million.*

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The above chronology and narrative accurately sets forth the facts surrounding the requisition of funds by the DCPS for capital projects.

At this time, I would be glad to answer any questions that the Committee may have.

Attachment 1

Attachment 1

TABLE 2: STEP-BY-STEP DESCRIPTION OF PROCEDURES FOR REQUESTING CAPITAL FUNDS

Step	Procedure
Step 1.	Agency enters financial information into FMS system
Step 2	Agency completes hardcopy batch report and transmits it to (OBP) for override/approval
Step 3.	OBP reviews document for consistency with budget authority, planned spending, financing availability, reprogramming regulations
Step 4.	OBP approves the FMS batch document and enters the batch override codes
Step 5.	**Funding is available in FMS for the agency as soon as the override code is entered (emphasis added)**
Step 6.	Agency can view approved document in FMS
Step 7.	OBP maintains an average turn-around-time on batch overrides of 3-5 days, assuming that the documents submitted do not contain errors

Mr. STEPHENSON. Good afternoon. My name is Ed Stephenson. I am the CFO of the D.C. schools. I have been there for less than 9 months. Prior to that I was at the Control Board, and prior to that I spent 26 years as an auditor with the U.S. General Accounting Office. As part of D.C. schools, I report to General Becton. As part of the District's financial team, I report to Tony Williams, who you just heard from.

During fiscal year 1997 I was responsible for overseeing the financial management of the capital program. On October 1, the DCPS procurement function was transferred to my office. This afternoon—and in my statement I basically outline and discuss the availability of capital funds and the effective management of these funds, as well as changes my office has instituted in the Office of Procurement. My statement does provide a number of details about when funds were available and what the process is. But since the timing of the June incident in terms of the fiscal year 1998 capital funds was discussed previously, when we were notified of those funds, let me elaborate briefly on that.

During the month of June a member of my staff and I personally inquired about the status of the District's $150 million borrowing that I knew had been borrowed by the city in early June. I was told by the Control Board staff that the city was considering reallocating the funds and a decision on the amount of the funds DCPS would receive was not final. Any reallocation of funds would need to be approved by the Control Board.

Near the end of June the Associate CFO that works for the city called the Control Board to inquire about the status of these funds, as I had inquired of her about those. She was informed at that time that the funds were not going to be reallocated and that we were able to load those funds into the financial management system, and we did so soon after that. But let me further point out that even before June, I inquired about when the District was going to be allowed to borrow the $150 million in funds. As I mentioned, I was at the Control Board at the time. I knew the city was going to be borrowing funds.

Mr. DAVIS. Who did you inquire of? It was not an anonymous inquiry.

Mr. STEPHENSON. Andrew Reece, who was a staff member, one of my staff members, inquired of individuals in the city, the CFO office. But let me further point out that, like I said, even before June I was inquiring about when the city was going to borrow $150 million in funds. I had been at the Control Board. I knew the city was going to do it. The borrowing had actually been scheduled for much earlier in the year. Then we borrowed the money in June. I can respond. I have a chart in my testimony that talks about and shows the availability of funds.

I might point out that even at that time, in June, there was some $12 million in unobligated captial funds, even without this $20 million.

Let me just talk about a few of the things that I have made in DCPS' office of procurement. As I noted before, I assumed the responsibility for the procurement office on October 1.

Dr. Brimmer noted in his testimony today a number of these changes. I installed a new procurement management team led by

Karen Chambers, who was in charge of procurement at the Control Board. Ms. Chambers has moved to quickly professionalize the procurement staff, improve the efficiency of operations, develop new procedures, and enhance connections between internal and external customers.

Just last week we entered into a blanket purchase agreement with GSA of the type Mr. Lawson mentioned and testified to earlier today. We are currently revising our procurement regulations using the D.C. Bar's recently completed revision of the District's overall procurement regulations, and I intend to present these draft regulations to General Becton by February 28.

Ms. Chambers has prepared strategic plans of the actions she plans to take over the next several months to reform the procurement office, and, Mr. Chairman, I would like to submit a copy of this plan for the record.

Mr. DAVIS. Without objection, so ordered.

Mr. STEPHENSON. Ms. Chambers is here this afternoon, I would like to introduce her to let you know the kind of professional that I think we have now in procurement in the D.C. schools. Karen Chambers.

In summary, Mr. Chairman, my office has ensured that fiscal year 1997 capital funds were properly managed, and we are taking steps to improve the procurement function and better integrate it with our other financial operations. I will also be ready to respond to your questions after the other witnesses testify.

[The prepared statement of Mr. Stephenson follows:]

STATEMENT OF EDWARD H. STEPHENSON, JR.
CHIEF FINANCIAL OFFICER
DISTRICT OF COLUMBIA PUBLIC SCHOOLS

before the

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

on

JANUARY 23, 1998

Good afternoon, Mr. Chairman, my name is Ed Stephenson and I am the Chief Financial Officer of the District of Columbia Public Schools (DCPS), a position I have held since last May. Prior to my taking this position, I was at the Financial Responsibility and Management Assistance Authority (Control Board), and before that I spent 26 years with the U.S. General Accounting Office.

As part of the D.C. Schools management team, I report to General Becton. I also report to Anthony Williams the City's Chief Financial Officer, as a part of the District's financial team. During fiscal year 1997, I was responsible for overseeing the financial management of the DCPS capital program. On October 1, 1997, the DCPS procurement function was transferred to my office. This afternoon, I briefly want to discuss the availability of capital funds to DCPS in fiscal year 1997, my actions to ensure the effective financial management of these funds, and, finally, changes that my office has instituted in the DCPS Procurement Office.

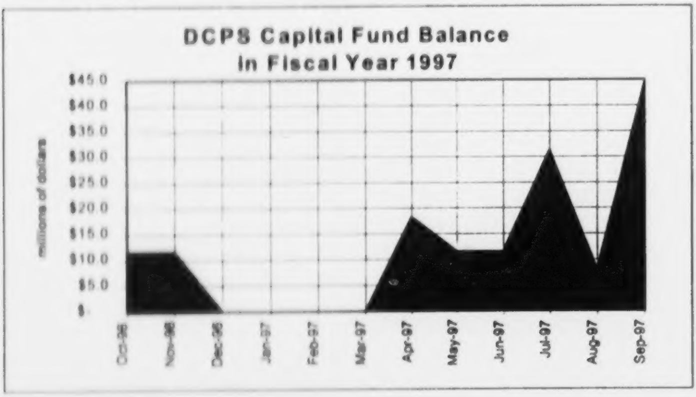
Before I specifically discuss funds availability, let me describe the capital funds financial process. First, I want to point out that all capital funds for DCPS are maintained by the Control Board. The Control Board notifies DCPS when new funds are available and then it is DCPS' responsibility to input fund amounts into the District's Financial Management System (FMS). Funds are pre-encumbered when Request-for-Proposals (RFP) are issued, obligated when contractual documents are approved, and expended when invoices under these contracts are paid. The D.C. Treasurer's Office notifies the Control Board that capital funds are needed to pay invoices and the funds are transferred by the Control Board to the D.C. Treasurer to pay these invoices.

DCPS received four major sources of capital funds in fiscal year 1997.

- In October 1996, DCPS was allocated $11.5 million from the District's fiscal year 1996 capital borrowing. Nearly all of these funds were obligated to boiler and roof projects that were managed by the General Services Administration (GSA). The Control Board and DCPS worked directly with GSA to enter into these contracts.

- In March 1997, the Control Board announced receipt of $18.2 million in funds from Connie Lee proceeds. On April 11, 1997, DCPS entered this fund amount into the FMS.
- In June 1997, $20 million in funds from the fiscal year 1997 capital borrowing were realized. DCPS was notified of these funds in late June and on July 14, 1997 they were entered into FMS and became available on July 22.
- In September 1997, the Control Board received $36.5 million in Sallie Mae proceeds and DCPS entered these fund amounts into FMS.

DCPS expended approximately $42 million in capital funds in fiscal year 1997. The exact amount will be identified in DCPS' fiscal year 1997 financial statements, which will be released on February 1, 1998. Details on capital funds availability and obligations are provided in a table attached to my written statement. Capital funds balances during the fiscal year are depicted in the figure below.



As I noted earlier, my primary responsibility with regard to the DCPS capital program was ensuring effective financial management of the funds. As I described above, my office ensured funds were encumbered as RFPs were issued and obligated when contracts were approved. Obligations cannot be incurred in the FMS without adequate funds. Expenditures were recorded in FMS as invoices were paid.

In addition to using the FMS, which lacks some real-time capability, we monitored immediate fund balances by entering all information on a computer spreadsheet. Thus, through the use of both the official and unofficial methods we ensured that adequate funds were available for all contractual obligations and no contracts were executed that exceeded budget authority.

In addition, an assessment of the financial management of capital funds is part of our annual financial statement audit, which is currently underway. We expect a "clean opinion" on our financial statements. Incidentally, DCPS balanced its books in fiscal year 1997 for the first time in five years.

Three months ago on October 1, 1997, I assumed responsibility for DCPS' procurement office. I had asked for this responsibility to better integrate the procurement and accounts payable functions. The transfer of this function helps to ensure better coordination between these related functions, strengthens internal controls, and improves service to vendors and DCPS program managers.

In November, I installed a new procurement management team led by Karen Chambers, who had been in charge of procurement at the Control Board. Ms. Chambers has moved quickly to professionalize the procurement staff, improve the efficiency of operations, develop new procedures, and enhance the connections between internal and external customers. Ms. Chambers has prepared a strategic plan of the actions she plans to take over the next several months to reform the procurement office. Mr. Chairman, I would like to submit a copy of this plan for the record. Ms. Chambers is here this afternoon.

In summary, Mr. Chairman, my office ensured that the fiscal year 1997 capital funds were properly managed and we are taking steps to improve the procurement function and better integrate it with our other financial operations in the future. That concludes my statement, I would be glad to respond to questions you may have.

Data on DCPS Capital Funds Availability In Fiscal Year 1997

Date	Explanation	Obligation	Reserves	Cumulative Obligation	DCPS Fund Availability	Cumulative Availability	Capital Balance
11/15/96	FY 96 Capital funds (available to DCFRA)	-		$ -	$ 11,500,000	$ 11,500,000	$ 11,500,000
12/15/96	GSA contracts & reserve (DCFRA worked with DCPS to contract for boilers & roofs)	$ 9,979,403	$ 1,500,000	$ 11,479,403		$ 11,500,000	$ 20,597
1/15/97	Contract for Cleveland Cafeteria	$ 16,016		$ 11,495,418		$ 11,500,000	$ 4,582
4/11/97	Connie Lee Funds loaded into FMS system and become available for capital projects			$ 11,495,418	$ 18,200,000	$ 29,700,000	$ 18,204,582
4/12/97	Initial information indicated that DCPS may have over spent previous capital funds. DCFRA asks DCPS to not obligate $6 million.		$ 6,000,000	$ 17,495,418		$ 29,700,000	$ 12,204,582
4/13/97	DCPS begins to hire capital staff. Reserve set up to cover estimated costs of capital staff for remainder of fiscal year		$ 600,000	$ 18,095,418		$ 29,700,000	$ 11,604,582
5/27/97	Roof contract for West ES	$ 96,850		$ 18,192,268		$ 29,700,000	$ 11,507,732
7/10/97	Contract for installation of electrical circuits	$ 16,216		$ 18,208,484		$ 29,700,000	$ 11,491,516
7/18/97	Contract for relocation of Montessori Program to Langdon ES	$ 382,500		$ 18,590,984		$ 29,700,000	$ 11,109,016
7/22/97	FY 97 Capital funds loaded into FMS.			$ 18,590,984	$ 20,000,000	$ 49,700,000	$ 31,109,016
7/23/97	Contracts for roofs on 30 schools	$ 17,597,568		$ 36,188,552		$ 49,700,000	$ 13,511,448
8/1/97	Based on study by DC Controller's Office, it is determined that DCPS did not overspend previous capital funds. Reserve for pre FY 97 overages were no longer needed. Also contracts for eleven roofs	$ 8,892,244	$ (6,000,000)	$ 39,080,796		$ 49,700,000	$ 10,619,204
8/4/97	Contracts for heat pump at Langdon, ADA work at Wilson SHS, floor tiles/ asbestos abatement at LaSalle ES, & structural repair at Duke Ellington.	$ 508,519		$ 39,589,315		$ 49,700,000	$ 10,110,685
8/7/97	Contract for structural work at School Without Walls	$ 26,636		$ 39,615,951		$ 49,700,000	$ 10,084,049
8/8/97	Contracts for roof at Leckie, cosmetology lab at Ballou, and roof at Cardoza	$ 191,380		$ 39,807,541		$ 49,700,000	$ 9,892,459
8/29/97	Contract for roof at Roosevelt	$ 1,921,000		$ 41,728,541		$ 49,700,000	$ 7,971,459
9/10/97	Sallie Mae Funds loaded into FMS			$ 41,728,541	$ 36,500,000	$ 86,200,000	$ 44,471,459
9/11/97	Contracts for fire damage at Lafayette and renovation of classrooms at Stanton ES	$ 362,600		$ 42,091,140		$ 86,200,000	$ 44,108,859
9/30/97	Capital funds are unreserved for capital staff for FY 97		$ (300,000)	$ 41,791,140		$ 86,200,000	$ 44,408,859

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Mr. DAVIS. Thank you very much.

Mr. MacLaury, welcome.

Dr. MACLAURY. Thank you, Mr. Chairman, Ms. Norton. I am Bruce MacLaury, chairman of the emergency trustees. You know our position is legally somewhat in doubt at this stage of the game.

Mr. DAVIS. We are happy to have you here, whatever the status.

Dr. MACLAURY. As a citizen. Thank you, Mr. Chairman. I have tried to shorten my comments. You do have them for the record. Let me speak as quickly as I can.

The crisis in DCPS, the public schools, has many faces, but none was so vivid as the decrepit and dangerous condition of the school buildings. Against that background and with all due respect, I do say that today's hearings have something of a surreal quality. Two of the people on this witness stand, Julius Becton and Chuck Williams, in my opinion, did more in one summer than their predecessors had accomplished in decades of procrastination. They ended the misguided practice of patching roofs, a practice that had wasted millions. If we are talking about waste, the patching wasted millions of taxpayers' dollars in the past. They have given us a school system that is virtually free of fire code violations and 61 buildings with new, warranted roofs. Now, instead of celebrating this feat, we are debating whether the paperwork during the crisis was done properly.

Mr. Chairman and members of this subcommittee, you were right to convene these hearings. An atmosphere of suspicion and mistrust has been created over the past months. In recent weeks that atmosphere has been exacerbated by an audit that again, in my opinion, applies business as usual standards, and makes legal judgments that auditors, in my understanding, are not necessarily qualified to make. I am not a lawyer myself, I would not make these judgments. It also suggests in an inflammatory way that, as, Mr. Chairman, you pointed out, conditions in our capital program were conducive to fraud, waste and abuse, although, as we have heard, none as yet has actually been found. I emphasize the words "fraud and abuse." Waste there was, because of the circumstances.

Before my colleagues tell you the rest of the facts in the case, I would like to say a few words about the legal and policy framework in which the capital program took place. In its order of November 1996, the Authority said that the provisions of the D.C. code and municipal regulations usually governing procurement did not apply to the board of trustees. It directed the emergency board to adopt "such policies and procedures, rules and regulations, with regard to procurement as will carry out this order." It explicitly went on to say that the emergency board could incorporate such rules and regulations of the Board of Education ". . . as it considers necessary or appropriate to enable it to carry out its activities."

This is important. Given this clause, and given, in my view, the impossibility of rewriting in our first year the entire body of Board rules, the trustees decided to let stand the Board of Education's rules and regulations in all areas except those in which the trustees decided that changes were imperative. The auditors would have understood our views on this point if they had asked. There was never any question by them to me as chairman of the trustees during the audit or afterwards.

It is essential to understand the environment in which the summer roof campaign took place. There has already been a lot of testimony on that, so I am just going to describe what General Williams had to cope with while he was worrying about roofs. There was the long-range facilities plan, of which there was none before he arrived. He also had to help the trustees in the closing of 11 unsafe schools. There were 10,000 outstanding work orders from schools that he found on his desk when he arrived, and roughly three-quarters of those have now been fixed. There were 1,600 fire code violations, and to my knowledge, there are none outstanding today. And I hardly need mention once again that even before Judge Christian's July 11 order stopping construction in occupied buildings, General Williams was operating under court order with respect to any of the repairs that he made.

All of this took place as he was replacing staff, some of whom could not be brought on board until the capital funds were available to support their work. It is worth recounting in some detail, because the emergency was not an abstraction. A finite number of people were working at an extraordinary pace with, in my view, a remarkable degree of success.

Implementation of this expedited process was generally left by the trustees to General Becton and his COO, General Williams. But, the emergency board met weekly with General Becton, and was briefed by General Williams about his struggle to get the job done under, frankly, unimaginable conditions. During these meetings, General Williams told us again, that the cost of roof replacements under the conditions in which we were trying to operate could easily run 30 percent above the costs—the key point—in other jurisdictions and under normal conditions. That is not waste. That is a premium for doing the job under the circumstances we had.

We understood this and we encouraged General Williams to do the best that he could under these nearly impossible circumstances. We asked ourselves the same question the Congress and the public should be asking: "Is it worth spending a few more dollars now to save money in the longer run, rather than patching roofs or postponing repairs that were essential to be done?"

This town is full of Monday morning quarterbacks. Some of them now contend we should not have done so much with the roofs, we should not have done so many roofs, we should have started them earlier, or we should have stopped the program dead in its tracks when Judge Christian forbade us to work in occupied buildings.

Frankly, this was one of the easiest decisions that I have had to make in my career. I can assure you, and General Becton will speak for himself, he was as pained as anyone could be having to postpone the opening of schools by 3 weeks, given his pledge that the schools were going to be open. We understood that. We stood behind that pledge.

We felt that it was a compelling circumstance that caused us to take that decision. Roofs left unreplaced—and this is a comment that I am sorry that Delegate Norton is not here to hear—or just patched would have led to continued fire code violations and unscheduled school closings throughout the school year.

We were still operating, or thought we were operating and would be operating, under Judge Christian's hand. That is why we endorsed Chuck Williams' sound decision to get the roof problem fixed at its root even though time was short and emergency procedures would be needed. We also knew that you and your colleagues had worked hard to get us the capital that we needed to get that job done; consequently you would ask us, properly, questions about why we had not spent that money, even under adverse circumstances, and then came back to you asking for more money.

The motto General Becton adopted a year ago is "children first." In the last few weeks it has been difficult to hear that phrase amid the din of charges and countercharges. There really is waste going on right now, but it is not the kind that shows up in an audit; it is the waste of children's minds, the loss of their futures that we should be worrying about.

While this city of lawyers and consultants and reporters buzzes about the latest school rumor and other rumors, I might note there are about 2,400 schoolchildren in second grade who are below basic in their reading skills. If they are not helped this year, they will be forced to stay back, and that is what we are focusing on and should be focusing on.

I urge that each of you read the trustees' annual report, our first annual report and perhaps, our last, that we would like to submit for the record. It discusses why we had to give such high priority in the first year to stabilizing school facilities. But safe schools are only a start. Now we should be facing squarely our promise to educate these children.

As you know, the emergency trustees have been placed in judicial limbo by a recent appellate court decision. Whatever the decision of the Control Board and Congress on the future role, if any, of the trustees, I believe that today's discussion underscores the need for oversight that is expert, nonpartisan, willing to make tough decisions, and focused solely on improving the District's schools.

I hope, in conclusion, Mr. Chairman, that Congress will support in the future, as it has in the past, with funds and with your good offices personally, that long and demanding work. Thank you.

[The prepared statement of Mr. MacLaury follows:]

Statement of Bruce K. MacLaury
Chairman
Emergency Transitional Education Board of Trustees
DC Public Schools
Before the
Subcommittee on the District of Columbia
Committee on Government Reform
U.S. House of Representatives
January 23, 1998

Mr Chairman and members of the Subcommittee

When the DC Financial Responsibility and Management Assistance Authority issued its order of November 15, 1996, it declared that "a state of crisis presently exists in the District of Columbia public school system " That crisis had many faces, but none so vivid as the decrepit and dangerous condition of DC school buildings In creating the body I have chaired for the past 14 months, the Authority called it an "emergency" board, for good reason

Against this background, and with all due respect, I must say that there is something surreal about today's hearing

The men at my side, Julius Becton and Chuck Williams, have successfully met one of the toughest challenges ever to face this school system rescuing thousands of children from unsafe, unheated, unreliable buildings, doing it in record time, and bringing in the project for just about what they said it would cost For Gen Williams the job included testifying in more than 40 court hearings

They did in one summer more than their predecessors had accomplished in decades of procrastination They ended the misguided practice of patching leaky roofs -- a practice that had wasted millions in taxpayer dollars and resulted in thousands of fire code violations -- and have given us a school system virtually free of violations, and 61 buildings with new, warranteed roofs keeping kids safe and warm

Now, instead of celebrating this feat, we're debating whether the paperwork was properly filed

Make no mistake We must have accountability and probity in the spending of public dollars But in the current instance, we seem to have lost a sense of proportion We have let a superb accomplishment be drowned out by the carping of those who sat on their hands while the system decayed It is ironic, to say the least, that some of those who appear to be so incensed about possible waste in roof replacements last summer are the very same people who supported Parents United in continuing its lawsuit long after all fire code violations were abated That suit disrupted construction plans, required premium-priced contracts for speeded-up work, and forced us to spend several million additional dollars in overtime and transportation costs

Mr. Chairman and members of this subcommittee, you were right to convene these hearings. An atmosphere of suspicion and mistrust has been created over the past few months. In recent weeks, that atmosphere has been exacerbated by an audit that applied the wrong standards, made erroneous legal judgments that the auditors were not qualified to make, and suggested in an inflammatory way that conditions in our capital program were "conducive to fraud, waste, and abuse" -- although none had actually been found.

Before my colleagues tell the facts of the case, I would like to say a few words about the legal and policy framework in which the capital program took place, and about the oversight role of the Emergency Board of Trustees.

Legal Framework. In its Order of November, 1996, the Authority said that the "provisions of the District of Columbia Code and Municipal Regulations governing procurement shall not apply to the Board of Trustees or the CEO-Superintendent." It directed the Emergency Board to adopt "such policies, procedures, rules and regulations with regard to procurement as will carry out this Order." It explicitly went on to say that the Emergency Board could incorporate such rules and regulations of the Board of Education "as it considers necessary or appropriate to enable it to carry out its activities. . . ."

Given this clause, and given the impossibility of rewriting in our first year the entire body of "Board rules," as the DC municipal regulations on public schools are called, the Trustees explicitly decided to let stand the Board of Education's rules and regulations *in all areas except where the Trustees decided to make changes*. The auditors might have understood this crucial point if they'd simply asked me or my staff; they did not.

Both Chapter 5 of the Board rules and the DC Public Schools Procurement Procedures Manual provide for emergency situations. The Board rules set a standard of "compelling urgency" for waiving conventional rules. The DCPS procurement manual specifically provides that an emergency procurement situation can be authorized by the Superintendent.

Does anyone question that this summer's situation -- officially labeled a crisis by the Authority, overseen by an emergency board, with conditions directly threatening the physical well-being of thousands of students -- fit the criteria for emergency procedures? If there were any doubt, it evaporated on July 11, when the DC Superior Court ordered cessation of construction work on any occupied building, throwing into chaos the system's plans for orderly replacement of roofs and boilers. At this point, what we had was an emergency *within* an emergency.

Organizational Background. It is essential to understand something of the environment in which the summer roof campaign took place. That program alone would have been a monumental task. But before it could get underway, Gen. Williams had already faced several major challenges in his initial weeks as the system's Chief Operations Officer (COO).

- As mandated in the DC School Reform Act, he developed the school system's first comprehensive long-range facilities plan, which was reviewed by the Trustees, approved by the Authority, and sent to the DC Council for its consideration in February.[1]

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[1] The Council did not act on this plan, nor did it enact its own. Accordingly, the DCPS plan was sent forward to Congress and remains in force. The COO is beginning a community-based, citywide review of the plan, which will again be submitted for Council consideration.

- Responding to the Authority's directive to close at least six school buildings, the Operations office conducted extensive facilities and space assessments prior to recommending 18 schools for closure in late March. That office continued to bear major responsibility for this matter as the Trustees prepared for their decision, in late April, to close 11 unsafe and underutilized buildings – and then bore additional responsibility for ensuring that receiving school facilities were ready for thousands of new students.

- The new COO inherited more than 10,000 outstanding work orders, a figure which has now been reduced by roughly 75 percent.

- Abatement of more than 1600 fire code violations was a top priority, successfully completed by early summer.

- Even before Judge Christian's July 11 order, DCPS was subject to time-consuming court supervision of the school's physical plant, with the COO's office responsible for each school's biannual fire code inspection.

All of this took place as Gen. Williams was replacing staff, some of whom could not brought on until capital funds were available to support project work. This is worth recounting in some detail because the "emergency" was not an abstraction. A finite number of people were working at an extraordinary pace, with a remarkable degree of success.

Oversight Role. How did the Trustees approach our oversight responsibility in this context? Throughout our first year, we had relied on the procurement contract review procedures of the Authority, which reserved the right to review every sole-source contract over $9000, every service contract over $25,000, and every goods contract over $50,000. In the case of roof replacements, the Authority saw the impossibility of applying normal contract review procedures, and explicitly exempted the school administration from pre-contract review.

Implementation of this expedited process was generally left to Gen. Becton and his COO, but the Emergency Board met weekly with Gen. Becton, and was briefed by Gen. Williams about the struggle to get this job done under adverse conditions. We heard, for example, about the difficulty of attracting firms that could take on emergency contracts to complete major jobs in such a compressed timeframe.

During these meetings, Gen. Williams told us quite frankly that the cost of roof replacements under such conditions could easily run 30 percent above costs in other jurisdictions under normal conditions. We understood this, and encouraged Gen. Williams to do the best he could under these nearly-impossible circumstances. We asked ourselves the same question Congress and the public should ask: Is it worth spending a few more dollars in order to get the job done?

This town is full of Monday morning quarterbacks, and some of them now contend that we shouldn't have done so many roofs, or should have started them earlier, or should have stopped the program dead when Judge Christian forbade work in occupied school buildings. In reality, the choice was obvious. Roofs left unreplaced, or patched, would lead to continued fire code violations and unscheduled school closings throughout the school year. That's why we endorsed

Chuck Williams' sound decision to get at the root cause of the problem, and actually fix it – even though time was short and emergency procedures would be needed.

We also knew that you and your colleagues worked hard to get us a capital budget, and to provide funds from the privatization of Connie Lee and Sallie Mae, so that we could finally start restoring our aging school facilities. Had we deferred repairs for another school year, Congress would be justifiably skeptical of future capital budget requests.

In retrospect, the Trustees have learned some important lessons in the past year. One of them has to do with timing and priorities. There is no question, for example, that we needed to close school buildings – and still face a situation of serious overcapacity. But the political firestorm occasioned by these decisions put a strain on us and on the organization, and diverted attention from the effort to reform academics.

On the matter of roofs, though, there can be no question. Immediate action was demanded because the safety of children was at stake.

Focusing on the Children. The motto we adopted a year ago is "Children First." In the last few weeks, it has been difficult to hear that phrase amid the din of charges and counter-charges. There really is waste going on right now, but it's not the kind the turns up in an audit.

It's the waste of children's minds, the loss of their futures, that we should be worrying about. While this city of lawyers and consultants and reporters buzzes about the latest school-system rumor, there are about 2400 second graders who are "below basic" in reading skills. This is the year we start to implement promotion gates, as mandated by Congress in the DC School Reform Act, and those 2400 children are at risk of being held back. Our Chief Academic Officer has called for enough volunteers to tutor each of those children, one-on-one, and give them a fighting chance to do well enough to make third grade next year. What will it take for us to focus on those children?

I urge each of you to read the Emergency Board's annual report, which was recently published, and which I am submitting for the record. It discusses why we had to give such a high priority in this first year to stabilizing school facilities and creating safe learning environments for our children.

But safe schools are only a start. Now we should be turning the corner and facing squarely our promise to educate these children. Our new academic officer, Arlene Ackerman, has laid out an ambitious plan including whole-school redesigns, an end to social promotions, reconstitution of failing schools, and teacher and principal evaluations based heavily on student achievement. It will take years to turn this school system around, but as acknowledged in yesterday's Washington Post editorial, the Trustees have "laid a foundation for progress."

As you know, the Emergency Board has been placed in jeopardy by a recent appeals court ruling. I will not use this time to address proposals for legislation to restore the authority of the Trustees. But I will say that today's discussion underscores the need for oversight that is expert, nonpartisan, willing to make tough decisions, and focused solely on improving the District's public schools.

Whether we continue to oversee the schools, or the Control Board takes on the responsibility directly, I hope that Congress will support – with funds and with your good offices – the long and demanding task ahead.

Mr. DAVIS. Thank you very much.

General Becton.

General BECTON. Mr. Davis, thank you for providing us the opportunity to testify today about the D.C. Public Schools' capital improvement plan.

As you know, in Washington perceptions often substitute for reality. Too often what people perceive is what they believe. Some members of the public and some in the Congress have expressed concerns about the massive capital improvement program undertaken by us last year. Based on most of the media reports about the recent audit of that effort by Cotton & Co., I am not surprised that that is the perception. Today I would like to, in a very few minutes, talk about reality. I'm not going to say that we did everything perfectly, we did not, but something seems to be amiss this afternoon, because we asked for an audit and we joined with the Control Board for the audit, and by the way, we are paying for the audit. So it is not something that we were subjected to. We participated in that request. I know that there is room for improvement. We learned lessons last summer, and we are using them to make changes to the way we do procurement and manage our capital projects. General Williams, our Chief Operating Officer, will talk about some of those lessons and new systems he has implemented as a result.

You have heard Ed Stephenson talk about the changes already made in procurement operations. Having said that, I do want to restate what I have said before a number of times. I believe that under extremely difficult conditions we made substantial progress in addressing what was clearly a facilities crisis in our schools. And I don't want that accomplishment and the hard work of those who helped to make it happen to be lost.

With this administration, when we were put in place by the D.C. Control Board about 14 months ago, we inherited a $2 billion infrastructure problem. You have heard how old our buildings are, and the fact that the buildings were crumbling. Over the past year we made substantial progress. We developed a long-range facilities master plan, abated more than 1,600 fire code violations, and replaced roofs in over a third of our schools. We closed 11 schools and began selling or leasing excess DCPS properties which in the past were allowed to stand empty and deteriorating for years. The proceeds from these disposals will be used for badly needed capital work in the operating schools.

As you are well aware, these achievements did not come easily. School closings are never popular. Property disposal can be controversial. The Parents United lawsuit forced us to make facilitates repairs under extremely difficult conditions. However, this administration was put in place to make difficult decisions, to do what is right for the children and to withstand the pressures from both inside and outside the system to preserve the status quo. We made some mistakes, but I firmly believe that we have made unprecedented progress in the restablization of the D.C. Public School Infrastructure. In fact, the size of our fiscal year 1997 capital improvement program dwarfs any effort undertaken in recent memory and, as a result, our schools are safer, dryer, and warmer, and the students and teachers who occupy them are now able to focus without distraction on teaching and learning.

That is as it should be. However, the perception, at least by some, is that the summer roof replacement program was not as economical and efficient as it should have been. Some have implied that the program was marred by waste, fraud and abuse. Today I would like to set the record straight. Let us look behind the headlines at the findings of the audit itself. According to the report, and I will quote directly, and you have heard this before, the auditors concluded that the D.C. Public Schools contracting process ". . . met this program objective to the extent that the school closing crisis was substantially abated by mid-September, 1997." At the same time, the auditors argued that DCPS, "did not have an effective procurement system in place."

In my view, these two statements reflect an apparent failure to grasp the fundamental nature of the project. The primary objective of the capital program this summer was to stabilize our crumbling infrastructure so we could open schools and get back to the business of educating our children. We accomplished that goal in a remarkably short time, under extraordinary circumstances; 61 roofs, you heard that before. You know that we were able to do that within 5 percent of our government estimate for the work, and, according to the auditors' own report, ". . . no direct evidence of fraud was found." In my mind, to allow that we met this objective, as the auditors do, and then to say that we are not effective is to draw conclusions that directly contradict each other.

Furthermore, for the auditors to state that they found no evidence of any misappropriation of funds, kickbacks, or other fraudulent behavior on the part of DCPS personnel or our contractors and still imply that fraud may have occurred because the emergency procedures used created conditions conducive to fraud is simply not responsible.

By the way, I was never asked to be interviewed by the auditors. I was never interviewed by the auditors. At no time did they even suggest that I be interviewed by the auditors. From my perspective, a few simple threshold questions should be asked by anyone seeking to fairly evaluate the summer capital program. With your permission, I would like to briefly state a few of them, and answer them and let the subcommittee draw its own conclusions.

What was the primary objective? Our primary objective has been, as stated already, to stabilize the facilities and get the schools open. Did we accomplish the objectives? The answer is yes. What would happen if we had failed to accomplish those objectives? Had we failed to accomplish those objectives, over 60 roofs might still be leaking and the Parents United lawsuit would still be ongoing, the court would probably still be closing schools on a daily or weekly basis, and students would be still shuttling to temporary sites where opportunities for substantial learning were greatly diminished. In short, the system would have remained in a state of crisis.

In view of earlier comments, I wish to note an important impact that appears to have been overlooked. As of July 11, last year, the court ordered that any building that leaked would be closed and roofs would have to be replaced. Patching, in our judgment, would not stop the leaks for the rest of the school year. These replacements would not wait. Schools that hadn't had replacements were closed after the school year had begun, if we may remember. That is what we were faced with.

What laws have we broken? None. What evidence of fraud or abuse was found? None. How much money was wasted? None. DCPS asserted from the beginning that the emergency nature of the project, with its high volume and comprehensive time line, combined with the fact that it was to be conducted in the District of Columbia, which has a highly unfavorable reputation with contractors, would result in higher costs than might otherwise be incurred for a similar effort under different conditions in a different jurisdiction.

Far from attempting to hide this reality, we stated it repeatedly during the summer and fall. In fact, it was our estimate that the unique conditions under which we were operating would increase the total or could increase the total cost up to as much as 30 percent.

Based on the answer to these threshold questions, I would respectfully assert that the summer capital program met this objective and that the public trust and the public investment were protected. Mr. Stephenson has already provided some information, and General Williams will provide more details to respond to the audit in his comments. So I will leave you with one final statement. I urge you to consider the information you receive today in its proper context.

Thank you for the opportunity, Mr. Chairman.

[The prepared statement of General Becton follows:]

STATEMENT OF JULIUS W. BECTON, JR.
CHIEF EXECUTIVE OFFICER AND SUPERINTENDENT
DISTRICT OF COLUMBIA PUBLIC SCHOOLS
BEFORE THE
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
ON
JANUARY 23, 1998

Mr. Chairman, thank you for providing me the opportunity to testify today about the District of Columbia Public Schools FY97 capital improvement plan.

As you know, in Washington, perception often substitutes for reality. Too often, what people perceive is what they believe. Some members of the public, and some in Congress, have expressed concerns about the massive capital improvement program undertaken by DCPS in FY97. And, based on most of the media reports about the recent audit of that effort by Cotton & Company, I'm not surprised. That's the perception. Today I'm going to talk about the reality.

I'm not going to say we did everything perfectly. In fact, I know that there was room for improvement. We learned lessons last summer and are using them to make changes to the way we do procurement and manage capital projects. General Williams, DCPS' Chief Operating Officer, will talk about some of those lessons, and the new systems he has implemented as a result. Mr. Ed Stephenson, DCPS' Chief Financial Officer, will talk about changes that have already been made to the procurement operation, and provide you with details on additional changes that are underway. Having said that, I do want to restate what I have said before, a number of times: I believe that, under extremely difficult conditions, we made substantial progress in addressing what was clearly a facilities crisis in our schools, and I don't want that accomplishment, and the hard work of those who made it happen, to be lost.

BACKGROUND

When this administration was put in place by the DC Financial Responsibility and Management Assistance Authority fourteen months ago, we inherited a $2 billion infrastructure problem. The average DCPS facility was over 50 years old and routine building maintenance had been neglected for years. Our facilities were literally crumbling -- roofs leaked, boilers were inoperable, and fire code violations were plentiful. We had millions of square feet in excess capacity and no long range facilities plan.

Over the past year, we have made substantial progress: we developed a Long Range Facilities Master Plan, abated more that 1,600 fire code violations, and replaced or repaired roofs in over one-third of our schools. We closed eleven schools and began selling or leasing excess DCPS properties, which, in the past, were allowed to stand empty and deteriorating for years. The proceeds from these disposals will be used for badly-needed capital work in operating schools.

As you are well aware, these achievements did not come easily: school closings are never popular, property disposal can be controversial, and the Parents United lawsuit forced us to make facility repairs under extremely difficult conditions. However, this administration was put in place to make difficult decisions, to do what is right for children, and to withstand pressure from both inside and outside the system to preserve the status quo.

We made some mistakes, but I firmly believe that we have made unprecedented progress in restabilizing DCPS' school infrastructure. In fact, the size of our FY97 capital program dwarfed any efforts undertaken in recent memory. As a result, our schools are safer, drier and warmer, and the students and teachers who occupy the are now able to focus, without distraction, on teaching and learning. This is as it should be.

FINDINGS OF THE FY97 CAPITAL IMPROVEMENT PLAN AUDIT

However, the perception, at least by some, is that the summer roof repair effort was not as economical or efficient as it should have been. Some have implied that the program was marred by waste, fraud and abuse. Today I would like to set the record straight.

Let's look behind the headlines, at the findings of the audit itself. According to Cotton & Company's report, and I will quote directly, the auditors concluded that DCPS' contracting process "*met its program objectives to the extent that the school closing crisis was substantially abated by mid-September 1997.*" At the same time, the auditors argued that DCPS "*did not have an effective procurement system in place.*"[1] In my view, these two statement reflect an apparent failure to grasp the fundamental nature of the project.

The primary objective of the capital program this summer was to stabilize our crumbling infrastructure so that we could open schools and get back to the business of education children. We accomplished that goal, in a remarkably short period, under extraordinarily difficult circumstances: 61 roofs were repaired or replaced, 20-plus year warranties were secured for each new roof, contract prices were within 5% of our government estimates for the work, and, according to the auditors' own report, "no direct evidence of fraud" was found. In my mind, to allow that we met this objective, as the auditors do, and then say that we were not effective is to draw conclusions that directly contradict each other.

Furthermore, for the auditors to state that they found no evidence of any misappropriation of funds, kickbacks, or other fraudulent behavior on the part of DCPS personnel or our contractors and still imply that fraud may have occurred because the emergency procedures used created conditions "conducive" to fraud is simply not responsible.

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[1] Cotton & Company audit, "Results in Brief," page 1

THRESHOLD QUESTIONS

From my perspective, a few simple threshold questions should be asked by anyone seeking to fairly evaluate the summer capital program. With your permission, I would like to briefly outline those questions, answer them, and let the Subcommittee, and the public, draw its own conclusions.

What was our priority objective? Our priority objective, as stated above, was to stabilize the facilities and get the schools open. Did we accomplish that objective? Yes.

What would have happened if we had failed to accomplish this objective? Had we failed to accomplish this goal, over 60 roofs might still be leaking, the Parents United suit would likely still be ongoing, the Court would still be closing schools on a daily or weekly basis, and students would still be shuttling to temporary sites, where opportunities for substantive learning were greatly diminished. In short, the system would have remained in a state of crisis.

What laws were broken? None. What evidence of fraud or abuse was found? None.

How much money was "wasted"? None. DCPS asserted, from the beginning, that the emergency nature of the project, with its high volume and compressed time line, combined with the fact that it was to be conducted in the District of Columbia, which had a highly unfavorable reputation with contractors, would result in higher costs than might otherwise be incurred for a similar effort, under different conditions, in a different jurisdiction.

Far from attempting to hide this reality, DCPS stated it repeatedly during the summer and fall. In fact, it was DCPS' own estimate that the unique conditions under which we were working could increase the total cost of the program by 30%.

Based on the answers to these threshold questions, I would respectfully assert that the summer capital program met its objective, and that the public trust and the public's investment were protected.

I know that General Williams and Mr. Stephenson are planning to provide more detailed responses to the audit in their comments, so I will leave you with one final statement. I urge you to consider the information you receive today in the proper context. Fourteen months ago, the Financial Authority issued an order removing the superintendent and elected Board of Education from direct oversight of the District's public schools and creating an ***Emergency*** Transitional Education Board of Trustees for that purpose.

I emphasize the word emergency here, because the Authority did not choose that word by chance. They took this dramatic action after concluding that "...in virtually every category and for every grade level, by virtually every measure of performance, the public school system has failed to provide a quality education for all children and a safe environment in which to learn."

The Authority said the District's children were "in crisis" and their school system was in a state of emergency. They gave my administration less than three years to undo decades of damage, and we acted quickly, and forcefully, to turn things around. I would simply ask you, and the rest of the Subcommittee, to remember where we started and to give us the time we need to get the job done.

I would be pleased to answer any questions you may have. Thank you, again, for the opportunity to testify.

Mr. DAVIS. Thank you very much.

Mr. Williams.

General CHARLES WILLIAMS. Chairman Davis and Ms. Norton, good afternoon. I appreciate very much the opportunity to address you. My presentation or statement will be a combination of some visuals and also some words of my own.

I would just like to draw your attention first of all to the chart that was up when Mr. Miller was making his presentation. The main purpose of that chart was to try to depict how complicated our structures here in the District of Columbia are.

I should point out that we inherited, and we must say this because it is a fact, a $2 million infrastructure problem, not making any excuse for it. We knew it was here when we got here, and we assumed employment with that knowledge. More assessments and analysis do not make it go away because it is there, and the buildings are over 65 years old. We were facing an emergency in January when we arrived in respect to our facilities, and I must say, in spite of the major effort that we were able to do on roof recoveries this summer, we still have some portion of our facilities in an emergency state today.

In respect to process, as most of you know, I spent almost 30 years in the Army Corps of Engineers. I understand the FAR. I have used the FAR. I have managed one of the Corps' largest projects, $517 million in value. I am very, very concerned about the understanding of what the procurement process was during the fiscal year 1997 effort.

What we did, we did it the best we could do under the circumstances, it was not perfect. While the documentation was not as it should have been. The integrity of the process and the elements of protecting the public's interest were in place. Every contractor who worked for us was qualified. There was competition. We have double warranties on each of our roofs and we had proper oversight over the job.

Moving next to the first chart, this first chart talks about the difference, the difference between what we are doing and what someone would make a comparison to elsewhere. There is only one District of Columbia when it comes down to facilities for schools. I can say this with some degree of credibility, having worked in the school construct and maintenance in New York City. This was not an ordinary, ongoing maintenance reroofing program that you would have in Fairfax County and et cetera.

Mr. DAVIS. You couldn't have done that if you wanted to, once the court intervened?

General CHARLES WILLIAMS. That is correct. So we were dealing with an emergency stabilization and repair program. This next chart will lay out the court actions. It caused major disruptions in our plan. It added schools to the program, which caused us, in the middle of this crisis, to alter the program. And this, Mr. Chairman and the Delegate, is what created this over-the-weekend type of procurement. We had no choice. We had 24 hours to get in the schools and start to work.

Extensive paperwork. We know paperwork is important, but our staff was supporting me 2 days a week going into the courts. We had excruciating paperwork.

Weekly reviews by the court. There has been some mention about oversight. The project had tremendous oversight. In fact, the judge reviewed it weekly, and had the inspectors to go out and verify that a piece of membrane was actually in place.

Staff focus on court preparation. The contractors became very nervous, and I must point this out, it was very, very difficult to keep the contractors in place and intensified an ongoing emergency situation.

This next line speaks to the complexity of the job. The upper building stabilization of our buildings was a major piece of work. It was not just replacing a roof.

Now, I admit, we replaced some roofs that were less than their useful life. I cannot connect to the 8 years that has been previously testified to, but there were some roofs that were 10 years old. We replaced those roofs because the buildings were leaking. Our job was to stop the leaks. Water was trapped inside, and for whatever reason, the job previously either had been done wrong or it had not been properly maintained so we replaced it, because the idea was to ensure that the building would not leak.

Roof accessibility. Anywhere in the District of Columbia, you pay a premium for that. It is not like Hayfield High School in Fairfax County, where you can climb on the roof with a ladder. You need a crane to access any of our roofs here in the District. You pay for that.

Compressed schedule. There was an unbelievable schedule. I have never in my professional life had a schedule this tight.

Multiple roof types. There were 8 of these roof types. There was slate, there was tile, there was flat, there was metal, and there was shingle. In many cases, they were on the same roof.

The availability of materials, particularly when you start speaking of slate. It is only a few areas and manufacturers within our proximity that had such supplies.

The labor pool adequacy during the summer is very key. And the D.C. work environment. I don't want to overemphasize this point, but you pay a premium for just working in the District, because of insurance. We had our consultants, a couple, robbed at gunpoint. We had several contractors, their material was stolen at least twice. We pay for that. So this is what created the premium, and as we were speaking to the auditors, I was simply saying that this is what we pay for, just simply working in the District.

Next chart. Now I know you cannot see this, but I just want to point out, and trust me right now and you can come down and look at it later, this is on Stuart Hobson Middle School. We have a tape measure here to indicate that there is 6 inches of water standing on the roof before we started to work. What is around there is a parapet wall, and it is that type of material, that type of structure, that we had to repair. If I would have replaced the roof without correcting that masonry, then you have not done anything. You have put a roof on but it is going to continue to leak. So what we set about doing is not only putting the flat roof on, but also restoring all of the associated and collateral upper building that was necessary.

This is damaged flashing here, again not necessarily roof membrane. This shows how the masonry has deteriorated between the joints. All of that had to be stabilized. And then there is standing water. So when you look at a school like this, there is no other place to compare it with, unless you get another one just like it.

Next slide. This shows damaged roof and membrane. As you can see, there is the membrane on the vertical part of the roof, not the horizontal part. That is tearing away. That must be replaced. Down here is very tight quarters. Contractors look at this. They pay a premium for this, because they have to work with one person in there versus a piece of machinery. There is blistering here, which indicates long, long years of delay.

The next slide, which is also a pictorial description at M.D. Lee, shows alligatoring. This is a term used when the roof just bubbles up. We had several of these, which would indicate that the substrate in the deck is bad. That is a major piece of construction, again, not just replacing the roof, but you have a lot of stabilization to do. You can also look at the patchwork. Now, this is what we could have done and gotten past G.O., and then we would have had 60 roofs that would have had the potential of disruption for the rest of the school year. That is why I think General Becton supported the decision that we and the trustees made that we correct the problem.

This next slide will get to the cost of it. Now we have compared roof to roof. This shows all of our schools, the GSA-managed schools and ours. This is what it cost. This was the government estimate that was prepared just prior to bidding, and all of the costs that we can accumulate to date, including change orders, is $31.5 million. You saw this the other day. We are showing an overrun or an overage, if you will, of $1.4 million or 4.8 percent. I think the national average is somewhere around 7, and people get awards for that.

This is the change order picture. There are fewer than 30 change orders. It is less than $1.7 million. That is represented by 5.4 percent of cost growth.

We have learned some lessons. We have learned some lessons as a result of this process. Funding should be in place from the outset. This was a major management problem for us because, as Dr. Brimmer correctly stated, we could not obligate any funds. I could not hire staff because our staff is charged against the capital program. So until money was available to me, not in the District but available to us, we could not move ahead.

We feel that GSA, that is No. 2, GSA's expertise should be used. Bill Larson has said there is no issue there, we will work together. An appropriate level of staffing should be in place from the beginning, and then of course the transfer of all funds to GSA when they are executing the projects. GSA has a very difficult situation to work when they do not control the funds. So if they are going to be involved, I say the funding should go, however it has to flow through, but it should go on to GSA so they can get on with their work.

Now going forward, we have new construction protocols. I have already admitted and said to you that we are not proud of the paperwork in the process. We did the very best we could under the circumstances. But that is correctible and no laws were broken. We have preconstruction conferences now before each of the jobs start.

We have a document control team in place now and a manager with some specialists working with him who does nothing but track documentation, and I don't think we will ever have this problem of paper in the process again. Thank you very much for your attention.

[The prepared statement of General Charles Williams follows:]

STATEMENT OF CHARLES E. WILLIAMS
CHIEF OPERATING OFFICER
DISTRICT OF COLUMBIA PUBLIC SCHOOLS
BEFORE THE
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
U.S. HOUSE OF REPRESENTATIVES
ON
JANUARY 23, 1998

Good morning, Mr Chairman and members of the Committee. I am Charles Williams, Chief Operating Officer and Director of Facilities for the District of Columbia Public Schools. Thank you for providing me with the opportunity to update you on our recent efforts to address the major facilities issues we are facing and to describe our plans for the future.

As General Becton stated, this administration inherited a $2 billion infrastructure problem, as identified by the General Services Administration and confirmed by our own facilities assessments. The average DCPS facility is over 50 years old (some date from the 1880s) and most of the building systems have passed their useful life. We were facing an emergency situation with our facilities when I came on board last January, and I want to say right up front that although we have made tremendous progress, the stabilization of our facilities is still an emergency effort. The Court's actions related to the Parents United suit intensified the emergency, but at no time since we resolved the suit have we stopped treating this situation as an emergency.

The Long-range Plan

In response to a congressional directive, almost immediately after I arrived we began working to develop a Long-range Facilities Master Plan. We formed a task force to draft our plan which included representatives from the General Services Administration, the Office of the Mayor, the Goals 2000 Committee, the 21st Century School Fund, the DCPS academic office, and my staff. We released our first draft of the plan in February, in compliance with a deadline set by the D.C. City Council.

Councilman Kevin Chavous, Chairman of the Council's Education Committee, then appointed a citizen group to review the draft and we incorporated a majority of their changes into the draft as a result of that review. Unfortunately, the Council did not act either to approve or reject the plan and we ultimately forwarded it to Congress without their approval to meet the congressionally mandated deadline of April 25, 1997. Our Trustees did approve the plan, and we have been operating in accordance with it for the past nine months.

The Long-range Plan serves as both an interstate road map to high quality, safe public school facilities and a detailed schedule for capital projects and budget projections. It is a "living document" and will be continuously modified as academic needs or priorities change, additional funds become available, or emergencies arise. In fact, the plan will be subject to a comprehensive review beginning this month. As part of that process, we will hold a series of public hearings, to receive advice and recommendations from the community. Just yesterday, we met with the 21st Century School Fund to solicit its input for the revision. The plan has three phases: stabilization, functionality, and modernization.

The FY97 Capital Improvement Program

As part of the stabilization effort, I am pleased to report that we completed 61 roof replacements and 5 major roof repairs in FY97. We made the decision and commitment to replace, not patch, leaking roofs whenever possible. Our roof replacement effort was substantially complicated by the lawsuit brought against the District of Columbia five years ago by Parents United. Unfortunately, this suit, which was initially brought in order to force the city to provide capital funds for much-needed repairs to school facilities, resulted in the imposition of multiple Court orders restricting our ability to do capital work, especially the requirement that buildings be vacant before any work could commence. As I noted before, the Court's orders intensified what was already a crisis situation in our facilities.

The Court action forced us to compress the 6-month remainder of a 12 month capital program into 7 weeks. The Court closed schools and forced us to bring contractors into those schools on 24-hours notice, making normal procurement procedure impossible. The Court required us to revise our plan to include schools that were not scheduled for work in FY97. The Court required us to develop monumental amounts of documentation, which had to be compiled by the same small staff that otherwise would have been ensuring that the contract files were complete. We spent countless hours in Court, describing, in excruciating detail, the status of work. We acknowledge that our contract files are not as complete as they should be, and we intend to ensure that those files are complete before they are closed and contractors receive their final payments. This process normally takes six months. Again, it should be noted that we were working under extraordinary circumstances, with limited staff, and with tremendous additional administrative burdens.

We also abated over 1600 fire code violations during just the first half of FY97, and we have developed a productive relationship with the Fire Department which allows for regular inspections of our schools and timely abatement of any new fire code violations in a manner that does not disrupt the education of the children. We know that another 40-plus schools have roofs that have outlived their useful lives, and they are scheduled for replacement during FY98, pending full funding of our FY98 capital budget. Finally, our FY98 plan also calls for repair or replacement of 44 boilers and the installation of some windows.

Congress also directed the school system to address the issue of excess capacity in the system, and we acted on that directive. We have closed 11 schools and converted two schools into swing space to accommodate students displaced by emergency situations or modernization programs. This effort produced annual savings of $6,786,000 in operating costs. Finally, we have begun disposing of surplus school property. The Dent School has been sold and funds received, the Edmonds Schools sale has been approved by the Control Board and the Buchanan School is currently being reviewed for approval by the Control Board. These three sales total $2,350,000. Another $9.5 million is currently in the pipeline and we expect to settle on over $20 million in sales by October 1998.

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Capital Program Management Procedures

Now I would like to address the specific questions you raised regarding the Cotton & Company audit.

I believe that we must first put into perspective the conditions and situation that I faced when asked to come and deal with the facilities issues at DCPS. I accepted the position of Chief Operating Officer/Director of Facilities because I believed that I could use my thirty-five years of professional experience to create a better and safer learning environment for the children of D.C. When I was approached by General Becton for this job, it was made clear that the Control Board and General Becton firmly believed that we were in a crisis situation and emergency conditions existed. As I have said, these emergency conditions were intensified by the involvement of the Court.

Emergency powers were granted to the Trustees and General Becton by the Control Board on November 16, 1996. Their resolution was a clear declaration of the emergency: they found, and I quote, "that a state of crisis presently exists in the District of Columbia public school system, which mandates that the Authority exercise the statutory powers granted to it by Congress on an emergency and temporary basis." We were given the authority to exercise good judgment in implementing accelerated procurement practices and, honestly, without this authority, I would never have taken the job because it would have spelled failure from the very beginning.

What did I face in the first week of January 1997? There was no long-range facilities master plan, no capital funding that had not already been committed, no capital staff and a 157 crumbling school buildings. Of the small amount of capital funding that was available, approximately $11.5 million already was committed to several roof, boiler, fire damage and structural projects being executed by the General Services Administration, as described by Bill Lawson.

In your letter, you asked about the assessment process that was the first step in the FY97 program. As you know, in recent years, several assessments of DCPS facility conditions had been made. We also did our own conditional assessment survey for each school. I personally visited every school in the District. These surveys were reviewed and prioritized by DMJM, a consultant made available through GSA, into the Capital Improvement Plan (CIP), with the associated parametric budget estimates.

Each project then had a detailed scope of work prepared by our consultant, and in a few cases by DCPS staff. Detailed scopes of work were prepared, and estimates were developed for the projects. These detailed scopes were used as the basis to procure the services. Cost estimates for the project were made based on the detailed scopes, using standard cost estimating procedures and data, with appropriate adjustments for area and other related factors.

The DCPS contracting officer issued several requests for qualifications to firms and joint ventures interested in DCPS work. These responses were evaluated according to criteria established in the RFQ, and the firms were pre-qualified. Additionally, contractors who were on the manufacturer's list of certified installers, had previously done satisfactory work for DCPS, and who were on the GSA list of approved contractors were also considered to be pre-qualified. All of our contractors were bonded, as required.

The DCPS contracting officer issued requests for proposals for individual or groups of projects based on the scopes of work developed above. The formats used were based on industry standard documents from previous DCPS or other agency procurements. All roof contracts except for two were competitively bid; these were the only sole source awards during this accelerated process.

The audit questions the management oversight and quality of work. A DCPS Project Manager was assigned to each project early in the development process. The project manager oversaw all routine aspects of the project, and received guidance from appropriate levels of management when required. The project manager was augmented with a full time representative from DMJM to further ensure that the project was being executed properly and that the quality of the work was acceptable. The project manager and the consultants issued daily reports during the construction period. I also made daily site visits and reviewed each project. Finally, I made weekly reports on our progress to the Court. The Fire Department made weekly inspections on the progress, quality of the work, and safety of the job site. This was also reported to the Court.

For the first time in the history of DCPS, each new roof has a 20-year manufacturer's warranty and a 2-year workmanship warranty from the contractor. As part of the workmanship warranty, the contractors are responsible for the first two years of maintenance. If there are any problems, we have our warranties in place. The 20-year warranty calls for the manufacturer to visit the site and inspect the completed work prior to the issuance of the warranty. We also have a Quality Assurance team that makes a complete inspection and report, upon completion of the work, before final payment is made.

Did the work cost more than in the surrounding jurisdictions? The answer is yes. We worked under very difficult circumstances in D.C. The insurance costs are higher, we are subject to the Davis-Bacon wage requirements, most of our buildings require the use of cranes to access the roof, and the projects themselves were complicated by the need to make extensive repairs to the upper portions of the buildings. The DC government's history of paying contractors is deplorable, and contractors know this. I had to personally persuade major, quality roofing companies to come to D.C. This was not an easy task. As I have stated, the Court's impact on the process also must be factored into the discussion.

Where are we now? A long-range facilities master plan is in place, over 1600 fire code violations have been abated, and we have installed 61 new roofs, made major repairs on 5 additional roofs, completed several major structural repairs at Bancroft, Ellington and School Without Walls, installed 6 boilers and 4 other under installation, replaced 2 HVAC systems and completed a major room conversion at Langdon Elementary.

In short, our children are in safer, drier, and warmer facilities. Without accelerated procurement procedures and a dedicated staff, this would not have been possible. All of this work was accomplished with no evidence of fraud. Quality products are in place.

We weren't perfect. We learned some lessons and we know we can improve the process.

Mr. Chairman, we took on the challenge and we performed the job. I am proud of what we have accomplished and I am especially proud of my staff members, who worked so hard for the children. I will be happy to answer any questions.

Mr. DAVIS. Thank you very much. General Williams, thank you very much.

Let me just start the questioning. Are we going to be opening the schools in time this September?

General BECTON. If I don't have a court tell me how to do my business, yes.

Mr. DAVIS. That is probably the most important symbol to people who view this from the outside and don't follow the intricacies every day of success in this system.

General BECTON. I can still remember a lecture I got on that subject.

Mr. DAVIS. No lecture. Obviously, I think one of the important things we have talked about is to keep us informed. No surprises. So we have worked with you, and I think one of the difficulties here is you have to act so quickly or react so quickly to everything going on, and make the tough decisions. You are out there making them alone, and I think there would be a lot of support if we could share that knowledge back and forth. Right here among all of you, if we had had better communications, we might have gotten that money out. I'm sure the Connie Lee money and bond money could have come out faster, and we could have saved 3 to 6 weeks in the process, and that could have saved money. It could have gotten things going on time.

For the life of me, I still don't understand from the testimony today what happened, so I am going to start my questioning with the Connie Lee money and bond funding. Where did this money sit and why didn't it get to the school boards?

Tony, what is your perspective on that? You understand the concern, you heard it raised. Everybody is pointing back and forth, they said that they didn't ask for them, they didn't inform them but they knew it, they were there when the check was presented. We count on all of you to coordinate and work on this together. It should have been available, it seems to me. Go ahead.

Mr. ANTHONY WILLIAMS. Yes, Mr. Chairman, I agree. Rather than "he said, she said," the lesson here is there needs to be one point of coordination, and that one point of coordination needs to understand what their flow of funds is from the outset. It may not be your full funding at the outset, but at least understand what that flow is.

There were two points of congestion in the system. One point of congestion was on the receipt of the Connie Lee proceeds on February 23, and the actual loan of those proceeds on April 14. All external funds to the District government—net of taxes—flows through the Financial Authority.

Now, in order to receive those funds from the Financial Authority, certain requirements have to be met, and apparently between February and April these requirements were not being met. In terms of one point of contact with everyone sharing responsibility, I think the requirements needed to be modified and amended, given the urgency of the situation. And on the part of those preparing the documentation for review by the Authority, clearly there needed to be some better work in terms of sufficiency. So rather than pointing fingers, I think there is this joint load sharing there.

Of the $20 million in the 1997 bond proceeds on June 14, this was actually received by the Authority on June 4th and was actually made available or was requested by DCPS in the FMS on July 14th, and after error corrections were made. This is actually typical by our agencies, and is going to be greatly expedited by the new financial management system. It usually takes 4 to 5 days to correct all of the errors.

The point of the matter is, it is a general understanding—notwithstanding any presentations that are made here, it is the general understanding by the agencies that as soon as a bond resolution is passed, and certainly as soon as bond proceeds are available, that the funding can be melded, and then loaded into the financial management system.

Now, I understand that Mr. Stephenson was told by someone in my office and someone in the Authority that basically these funds couldn't be made available until the Mayor had reallocated the capital. The only problem with that scenario is that in 1997 the $20 million allocation for school capital was enshrined or was incorporated into the 1997 District appropriation. That is Federal law. So it really is irrelevant what anyone down in the District level wants to do with that $20 million because it is now Federal law. It is kind of a basic principle.

Mr. DAVIS. I understand, but the money didn't get out. It should have gone right away. Tony, we admit mistakes were made, between the communication, that money should have come out a lot faster. It didn't, for whatever reason. The word didn't get through the system.

I am not here to try and point blame. I appreciate everybody's candor on this and admitting, yes, we could have done a better job. We don't know what the costs were, but we cannot afford to let it happen again. But do you think that the current system of notification of capital funds availability should be reviewed and improved, or do you think it is now satisfactory?

Mr. ANTHONY WILLIAMS. Moving forward, I think we are in much better shape to avoid these problems because each of the agencies now understand that they will operate on a post-audit basis. So in other words, they understand that they received their full load of operating funds for the year, they understand that immediately upon receipt of bond proceeds they have fully available to them their capital proceeds as well, and it is up to them to meet all the necessary rules, regulations, and criteria and the expenditure thereof.

Mr. DAVIS. Let me ask you, Mr. Stephenson, I know—and I am not trying to put anybody on the spot, do you agree or do we need——

Mr. STEPHENSON. I agree. This incident we knew about last spring, there was some questions about, or early summer—that incident in and of itself helped to clarify what the policies and procedures are. I do not think that kind of thing will happen again. I think there is still a potential, not with the city's bond borrowing, but if in fact any kind of additional special money comes available, we need to make sure we have the coordination there.

Mr. DAVIS. But it would have made a difference had you had that money up front? It would have made a huge difference in your planning on this, moving ahead and getting schools opened earlier?

Mr. STEPHENSON. The $20 million, we already—there already was some $12 or $15 million available at that point in time, so—that was unobligated. The moneys in April, I am not sure exactly what the reasons for that were. I was not there at that time. But—so, yes, it would have made a difference if we had had it. We could have hired capital staff sooner. Frankly, there is an overemphasis on funding here. That is not the primary reason why it took a while to get these projects up and running.

Mr. DAVIS. In one sense, no, but in another sense, there was a lot of blame up here, because money wasn't forthcoming from Capitol Hill. We didn't see it coming, so it was a factor in terms of your ability to move ahead and get contractors, but not necessarily the only factor. Tony.

Mr. ANTHONY WILLIAMS. I would just say, Mr. Chairman, I think a yeoman's job was done, and I applaud General Williams and General Becton, no exception there. But I do think one of the things we have to look at is not only the availability of funding but the flow of funding.

If you look at the FMS records, it is clear that even if you accept these two obstructions here, it is clear that if you had evened out the flow of funding, you may have bought a little more time. So we are all accepting responsibility here. I think that is a responsibility that ought to be accepted.

Mr. DAVIS. I agree, and I think it is refreshing for you to come up and say that, and, hopefully we won't be through that chapter again. But we learned from this, and there are some very good things that happened. General Williams, you made good comments.

We are not going to have to revisit this issue a year from now, 2 years from now, or 5 years. We have warranties, and you can't underestimate what that means. As I said earlier today, I would rather be arguing about a few dollars here or there that we might have gone over what we might have spent as opposed to arguing the job didn't get through and that we are going to have to come back and patch it up again a year or 2 from now. So in terms of that, let's give credit where credit is due.

Still, we have a responsibility to oversee what happened, the decisions made. I would have, frankly, preferred that we be more of a partner to you in this, that we have better communications up and down; when questions and audits hit, we can react with some knowledge, as opposed to reading excerpts in the newspaper or something read to us over the phone; it puts us in a very awkward situation.

General Becton, it has been widely reported the Teamsters Union has voted to go on strike in February if they don't receive a raise that has been delayed for 6 years. I know you have been trying to avert that situation, which will probably cause you to close the schools, perhaps. Can you tell the parents and taxpayers of the District what the status of that threatened strike is right now?

General BECTON. I can, Mr. Chairman.

Yesterday we met with Mr. Feaster and eight of his senior members of the union. We are working out the details now, and we will go together to the Control Board with a negotiated piece of paper, before the end of the month, to point out what the costs are going to be, because we, as you know, don't have the money in the school system. The Control Board has said they will find the money.

Mr. DAVIS. It depends on how much it is.

General BECTON. That is true, and I can only say what I was told by the chairman. There will be two tranches, to use an expression Chuck used, of funds, one for current employees, and then a second one for those employees from back in 1993 who are no longer in the system.

And rather than saying what that negotiated percentage may be, let me just say that I feel comfortable that the funds will be reasonable and that employees will be brought up to parity, and I feel comfortable that we will avoid any work stoppage or avoid any interruption of our schools.

Mr. DAVIS. Thank you. I think that is reassuring to the parents and all of us that are concerned about it.

Mr. MacLaury, I don't have any questions for you except to say you have had a tough year. We thank you for putting yourself forward. We know it is a labor of love, it is not financially remunerative. But I appreciate your testimony today. I think a lot of it was right on in terms of putting this in perspective. But we also have a duty and responsibility to oversee all aspects of this, ask questions.

One of the problems we have had in Congress is that for years that wasn't done, and they took the city at its word and let it go, and that is why we ended up with the roofs and the kind of repair it was and an infrastructure that was crumbling, because we had city leaders not always candid with Members of Congress and Members of Congress that did not always want to ask tough questions and get below that. So we could never get to the funding and structural issues.

You know, hopefully this is a period of where we can talk candidly, not in a critical nature, but one of trying to work together and move ahead, and that is the goal of this.

I think we have seen today what some of the issues we could have done better on are, but also some of the good work that was done, some of the groundwork that has been laid for the future of the city, and some of the contributions you have made in that regard.

I am going to yield to Ms. Norton for some questions.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Williams, could I ask you the status of the new financial management system. How close are we to getting one? It was a major fight up here that we had to wage in order to get you to the point where you could get one.

Mr. ANTHONY WILLIAMS. Right. And I thank you, Congresswoman, for that help. We are still planning on introducing our pilots on February 1st, and that would be at the Department of Public Works, the D.C. Public Schools, parts of Human Services, and my operation. In other words, key oversight and key service delivery components of the District on board as of February 1st.

The remaining agencies would be brought on over the summer, and before and after each of these introductions, there is what is called as is and to be reengineered. So we are not only, as we promised, putting in new hardware and software but we are also looking at making major corrections through the operations people and processes, some of which, quite frankly—and led to some of this.

Ms. NORTON. Yes, that was going to be my next question. If there had been a state-of-the-art financial management system in place, could you give us some notion of what kind of difference it would have made in this situation?

Mr. ANTHONY WILLIAMS. Well, for one, Congresswoman, I think a lot of our problems, almost like epistemological problems of what actually happened or is happening is because of this lag in the system.

It takes, right now, with a Herculean effort on our part, 60 days and up to get agency directors, oversight bodies, investors, decent information on our status. And, obviously, if you have a situation like this where every moment counted, if you are talking about 60 days lag, that is clearly unacceptable.

Ms. NORTON. How much lag time should it take?

Mr. ANTHONY WILLIAMS. You should be able, to find this in real time. In other words, you——

Ms. NORTON. Push a button.

Mr. ANTHONY WILLIAMS. Well, you push it, if you want to know the weather right now as opposed to the weather 2 months ago in another city.

Another feature of the system is that we are not basically driving a truck around with all these documents between various offices. We are able to transport both the forms and the component data on line as part of a wide area network. That is also, I think, a key component.

And then, third, a key component is, again, a necessary part of this. There is a reengineering that takes place in putting in your system, and what you do in that reengineering is, you try to consolidate and define and try to rationalize all these different control points.

I believe one of the problems that led to this, the messy parts of this, were because you had all these different control points with an old system. You need to get a new system which clarifies one point of contact and service control point. One person has to be responsible; you can't have five people all responsible, or else you get everybody pointing fingers at one another. Now I think that this is a big part of the new system introduction, is clarifying that point of accountability and responsibility, and that is Mr. Stephenson, in the case of the schools.

Ms. NORTON. When do you think a complete financial management system—I know you are doing your pilot; you are doing it exactly right; you have to do that first. When do you think the whole city will be on line with one financial management system?

Mr. ANTHONY WILLIAMS. The whole city will be on line by October 1st of this year, and the new system will then be what we call the system of record.

Ms. NORTON. That is the most promising and encouraging news that can come. I just don't think anything we are doing in streamlining the Government, reforming the Government, restructuring the Government, has any meaning if this financial management system is further delayed, which is why the chairman and I and many others believe that whatever you can do with the existing system simply would not have been sufficient to get you to where you now say you can be by October 1st with a state-of-the-art system.

Mr. DAVIS. Also, will the personnel be there ready to run it? That is always the other question. You can have the system up, but you need the trained personnel to do it. Will we be ready for that?

Mr. ANTHONY WILLIAMS. Yes, sir. As you know, the last couple years, we have gone through some painful adjustments in personnel, and this year and forward, we are now and will continue spending an enormous amount of time investing in our people, both practical training—in other words, going to other agencies, whether they be Federal, State, or local, in other places, that are doing the job well as part of this new financial management system. Everyone, from both those folks who were actually working on the system and ultimately the agency heads, will be trained on how to use the system to their advantage because, as you know, Mr. Chairman, this isn't our financial system, it is really a system for the Government, for managers in the Government.

Ms. NORTON. Mr. Williams, I think that there is, in the city, and perhaps even here, at least with this Member—there has been some confusion or some tendency to get you mixed up with the Control Board, where the controls really are. There is a CFO, there is a Control Board, and part of your testimony has sought to differentiate the rolls.

What I don't understand is, once we have a CFO, why there would be a lot of controls from five volunteers in the first place. And, you know, the congestion I can understand in an unreformed system below. But essentially, it would seem to me that at the Control Board level, it would be very difficult to monitor you on what looks like the same basis upon which you are monitoring your own employees.

If you can straighten me out on your relationship with the Control Board, how much oversight you get, how much independence you have, and whether there is any congestion between you and the Control Board.

Mr. ANTHONY WILLIAMS. Yes, I thank you for that question.

Ms. NORTON. I was not fed that question.

Mr. ANTHONY WILLIAMS. It is a painful question to try to answer. I will put it this way. I have had discussions with John Hill, who is the executive director of the board, and Camille Barnett, the new chief management officer, on the need over the next year or 2 years to begin to try to streamline and rationalize a lot of the oversight support mechanisms.

I think one of the key things we have to do, as we move out of the control period, is try to streamline and simplify the oversight of the Financial Authority and yours truly because, you know, I work for the Financial Authority, essentially, and then also begin to reintegrate and streamline, simplify, the relationship between my office and the program agency heads because, as the chairman knows, from the Government Reform and Oversight Committee in general, the key financial manager in a government agency is the program manager, ultimately, it is not the financial manager.

If you have underspending in an agency, that is because you have congestion in a system. Only a program manager can bring you to that optimal level of spending; the financial person can't do that.

And so I think those are our two challenges now. I know I didn't directly answer your question. I will put it this way: I think it is a challenge and something we have to work on.

Ms. NORTON. I would like some indication from you, given the changes Congress has made and who runs the District, how your authority is exercised. Now when the Mayor and the City Council and their agents ran the District, your oversight to see that cost controls were in place and all the rest of it seemed natural.

Well, the Mayor is not running the city now, and his agents are not running the city now. And yet we often hear—we in the Congress hear words from the Control Board and others that makes us wonder who, in fact, is exercising spending controls.

For example, when we hear that there is an IG who can come in to investigate, among other things, the already being investigated police department, and he can have whatever money he needs, and that General Becton will have whatever money he needs to get the schools open, and the rest of it, we are left to wonder how that could possibly be the case.

And so I have to ask you, what controls do you exercise over those who now run the city to make sure that cost overruns do not occur? And are you privy to their financial operations, such that you can assure the Congress that overspending will no more occur now than we expected it to occur when the Mayor and his agents were running the city?

Are you prepared to say to us, for example, that the management plans that require extra money, not in the budget, that has been approved by the—the appropriation has been approved by the Congress—will, in fact, not resolve in overspending anywhere and that there are controls in place and that you are free to stop overspending from occurring, even if that overspending has not been directed by the Mayor but by others?

Mr. ANTHONY WILLIAMS. Well, Madam Chair, I think we have demonstrated our capacity, certainly in, I guess you would say, the previous regime, to exercise spending control, and in the new environment, under which we have a management reform program, I continue to believe that while I report to the Authority, I also have a reporting relationship to the Mayor and to the Council and to the Congress, and that I ultimately have to account for discharge of my responsibilities under the Control Act. There are 12, or 13 or 14 areas of responsibilities I am supposed to discharge, and I have to discharge those responsibilities whatever the environment.

I think the change is that while the emphasis in the last 2 years has been on spending control, the emphasis, I think, now needs to be discharging first to the agency CFO's, like Ed Stephenson, their authority or responsibility—they need to be full-fledged CFO's in their departments—and working with that agency CFO and the program head of the agency so he or she understands financial management responsibilities, so that we can optimize the flow of funds.

In other words, I think the key problem now for the District is not overspending but really, on an optimal basis, matching resources and results. You know, if the elected officials in the District have given an agency $60 million, the agency ought to provide products and services that match that $60 million, not $55 or $52, because we couldn't get our act together.

Ms. NORTON. You have given the idea a certain amount of money. Then when he is going to get whatever he needs, one wonders where that money would come from. I am concerned about controls, in that money can just be slopped around from one place to the other.

Mr. ANTHONY WILLIAMS. The Authority did a memorandum on this point, and basically the point of the memorandum was that, henceforward, reprogrammings of funds, whether they were within an appropriation line or between appropriation lines, would go from the Mayor to the Council, to the Control Board for review, and if they were between appropriation lines, they would come to the Congress for review as well. And I continue to believe that. I don't think we have a big tub of money we can just move around on a fungible basis.

Ms. NORTON. Maybe this is a lot of loose talk, but it doesn't inspire confidence when I have been up here saying to the Congress we need every cent we can get, and if we get less than that—and then these folks get anything they want.

Mr. ANTHONY WILLIAMS. But in fairness to the Authority, I think when they direct resources, I think there is an implicit request as well that we obviously follow the appropriate safeguards and controls.

Ms. NORTON. It is not the safeguards I am worried about, I am worried about the availability of money. We were told that the budget was so tight that we could not—a very substantial reduction in the budget, in the appropriation, or at least in your spending authority, was proposed by Mr. Taylor, and we fought a major fight up here on the theory that no such reductions could possibly be absorbed anywhere in the District, and, again, if that is not the case, we don't need to be making those representations.

Mr. MacLaury, I can understand your disappointment, I think echoed in your own testimony, and there is a bit of bitterness, I think, in your remarks, which is perfectly understandable, as an unpaid person who had to take brickbats for trying to do the best he can.

I can assure you, this committee is not interested in paperwork, but, again, as unfair as it may be in time, once you get in the kitchen, there is heat there and there is just no way to avoid that heat.

There is appreciation in the Congress for what you have done and for what General Becton and General Williams have done, but it is impossible, as an act of appreciation, to forgo legitimate criticism.

I want to indicate that while we are not interested in paperwork, we are concerned that the auditors reported the kind of lack of cooperation, which seems to me to be manifest now because the letter was signed, and it was signed late, and I don't think that is paperwork. And it seems to me that perhaps you might have tried to mediate that matter—or General Becton and General Williams might have found somebody in the Control Board, because I would hold them responsible as well—for trying to do that, so that we would not have had the position where the auditor's report is very contentious, despite what you regard as your best efforts. And I want to know, were you aware that there was this problem with the auditor?

Dr. MACLAURY. Ms. Norton, first let me say that, if it appeared there was bitterness in my statement, I did not choose my words well. That is not my state of mind in the least. I am anxious to put the record as straight as I know how, and that was the purpose in saying what I said.

With respect to the question about lack of cooperation, I heard for the first time today, in testimony from Mr. Cotton, that there was some question about files being handed over and then withdrawn and handed back. That is news to me.

Like General Becton, I was aware that the audit was going on. The audit firm never contacted any of the trustees, to my knowledge—certainly not myself—so there was never any opportunity in that respect to have input into the audit.

Yes, I was aware there was a substantial controversy about the representation letters, and whether or not they should be signed, and in what way they should be signed. I was not passive in this respect; I have consulted with a number of very senior people in the auditing business about what should and what should not be expected by way of representation letters in a "process audit" as distinguished from a "financial audit." When there are balance sheets and income statements, it is a pretty set routine.

As to what one is expected to sign, this is a process audit, and it is by no means a cookie cutter one. So when the letters were presented by the auditor as drafts to be signed—I did not know he presented them as drafts, I thought he was presenting them, "to be signed"—there were five letters to five different officials, and there was, perhaps, one word or so difference among these.

The auditor was suggesting that General Becton sign the same representation letter as the head of contract processes. That struck me as quite strange, to put it charitably. And in the end, it is not simply that these letters have now been signed and therefore could have been signed earlier. The letter that General Becton signed last night is a totally different letter from the one that was presented to him by the auditor. He signed a one-page letter saying that, to the best of his knowledge and belief, all the relevant information had been turned over to the auditors. He did not sign about 20, as I recall, paragraphs of an affidavit with respect to the details of the audit, which he should not have signed.

To summarize, I have been in process of talking with people in the audit profession, and I have given the general counsel of the schools and General Becton my advice based upon that.

Mr. STEPHENSON. Can I just add an additional comment about that? I mentioned in my statement I spent 26 years with the General Accounting Office. In these types of audits—and I distinguish this from a financial audit; I understand management the use of representation letters. In this type of audit, however I found this to be surprising. I had never asked anybody to sign a management representation letter in my work with the General Accounting Office, and I did all kinds of procurement and management studies, et cetera. So it took me by surprise, especially the extent to which the statements that were in there, and many of them were false for me. In many areas, I was not responsible for, and it was unclear to me I could change this letter.

So it was an unusual process, to say the least. And I have checked with other people, and this is an unusual process for this kind of——

Ms. NORTON. I won't ask General Becton and General Williams to go through the same process of explanation. I am sure that would endorse at least much of what you said. I will say only this, that everybody in here is grown up and that what you got out of it was a contentious audit, and what could have been avoided, it seems to me, was this kind of, "he said, she said, I signed, he signed."

If, in fact, there had been some actor willing to step up and mediate the matter, it probably would have either been either in the Board of Trustees or in the Control Board, but the Congress—and so what we are left with is really an audit that doesn't tell us very much. And of course you all tell us we shouldn't even rely on the audit. And it looks as though there was lack of cooperation when there might not have been, when there might have been miscommunication and misunderstanding.

We recognize that part of the problem is so many actors in the system, it is hard to find somebody who can play a given role, because people don't have the same kind of assigned roles we are used to having. We regard that as very unfortunate and preventable.

General BECTON. May I make a comment?

First, I want to thank you. When I presented my prepared statement, you were not here, and I wanted to make sure that the record reflects appreciation for the "Dear Colleague" letter you sent out to all of your colleagues in the House of Representatives to help us to get more tutors. Everybody Reads, DCPS' new literary program, is something we want more people to do, and you made a great step to get us started.

The second point I want to make deals with the lack of cooperation. I saw the auditors twice; that is, at two exit briefings. At no time did the auditors come look for me. I even asked to see them. At no time was I interviewed; at no time did I know about this, quote, lack of cooperation. I am the agency chief, and it seems to me if we had a problem, I would be the first person or at least the second person to know about it.

Ms. NORTON. Unfortunately, auditors, particularly brought in in the middle of a quarrel and controversy of this kind, sometimes do have a "got you" mentality, and perhaps this was in part what was at work here.

I just think that the lack of a figure who could say, look, everybody get in the same room, let's figure this out, is what was missing here. I can understand that the fact you ultimately signed the letter must have meant there was a letter that could be signed.

General BECTON. The letter the auditors initially wanted us to sign prepared by them included about 20 different affidavits of one sort or another. We ultimately signed management letter; I signed one, and all these folks signed them, except one; that is general counsel. In her view, she should not be required to sign it, and I can support that.

Ms. NORTON. Because, you know, parents and residents have absolutely no patience for that, you know, "Who signs? Will he sign? Will she sign?" That distracts from the very important work that you are doing. I would like to get those kinds of issues off the table from here on in.

Could I ask, you now have—I will call him, I don't know if this is the right name—a special master, rather than this judge looking at you. Can I ask what the special master has discovered and how that process is working at this time?

General BECTON. He is an adviser by title, not a special master, and he would be here, but this is Friday and he goes elsewhere on Friday. He is very supportive of what we are doing. His name is Don Brown. And I would like for General Williams to explain the relationship that he has established with Don Brown to bring about what we think is appropriate rapport.

General CHARLES WILLIAMS. Don Brown has been one of the best things that could ever happen to me. He is a very good friend, he understands the business, he is very critical when he has to be, and he passed me a lot of helpful hints. I arm him with as much information as I possibly can to make certain he can connect with the community. He attends and has an open invitation to, all of my staff meetings. He also sits through all of the process work we do—e.g., such as source selection, committee work and et cetera. Additionally, he goes out to the schools and participates in our preconstruction conferences. He was with me at Dunbar High School yesterday when we did the 50 percent progress report on the gymnasium project. So in summary, we have a good professional relationship and understanding.

Ms. NORTON. This is the way to go at it, this kind of preventive work, as opposed to having a judge look after the fact, is precisely the way to go. And you will note that I was not one of those who regarded the judge as a hero. She should have seen that this was the way to do it. That is her job. I think she was as much responsible as you were for keeping the schools closed.

Let me ask you, Mr. MacLaury, about bonuses. You heard what Dr. Brimmer said, it is not him, it is you, who has been signing these signing bonuses and performance bonuses, and of course now General Becton and General Williams are foregoing any bonuses, and I think that is very wise. But I don't understand how these bonuses came up in the first place, and therefore I would like to know what actions you are taking to at least keep that form of contention—you have enough contention.

But it seems to me it was perfectly foreseeable, as these kind of bonuses became known, that you would have something else laid on your back. Are you still into signing bonuses and performance bonuses, or do you adopt the views of the chairman that they should be—they should only be incentive bonuses, only for standards spelled out in advance, and the rest of what it seemed to me he agreed to?

Dr. MacLaury. Ms. Norton, let me try and summarize. There are three issues regarding bonuses. One is signing bonuses, the second is incentive bonuses, and the third is gross-ups, or paying taxes on any kind of a bonus. Those are the three issues.

You heard Dr. Brimmer's testimony, and he defends, in principle, the idea of a signing bonus if it is necessary to attract key people. You, yourself, I believe, Ms. Norton, said it should be restricted to a very small number, if it is necessary at all. I agree.

Ms. Norton. But I gave an example that I think maybe Dr. Ackerman fit if she had another offer and if you felt there was nobody else who could do the job.

Dr. MacLaury. She did have another offer, to the best of my knowledge, and we were told that. We knew we were bidding against Cambridge, MA, for a higher salary than we could pay, and it was an open and shut case, so far as I was concerned, that a signing bonus was called for in that instance. In the case of General Williams, he took a cut in pay to come to work with the schools. That is not unusual.

Ms. Norton. General Williams, you retired from the——

General Charles Williams. I was in the private sector when I came here. I had been retired——

Ms. Norton. Are you or General Becton receiving your full pensions for your armed services?

General Becton. I am. The pension I earned after 40 years of service I am receiving.

Ms. Norton. Are you, General Williams?

General Charles Williams. After 30 years, yes, ma'am.

Ms. Norton. How much are those pensions?

General Becton. My retired pay, I think, is $76,000.

Ms. Norton. And how much is your pension, General Williams?

General Charles Williams. $62.

Mr. Davis. Not as good as the congressional pensions, though.

Ms. Norton. Well, your pension wouldn't be anything like that, sir; nor would mine.

Mr. Davis. If I were here for 30 years, it would be, absolutely.

General Becton. I spent 40 years to earn that. I fought in three wars. I think I deserve it.

Ms. Norton. We are not begrudging you your pension, but the fact is that, normally, if you had been a Federal worker, you couldn't receive your full pension and come back to work.

General Becton. Yes, ma'am, I could.

Ms. Norton. If you had been a District worker—who is it that can't?

Mr. Stephenson. People who worked in the Federal Government for the District, who worked for the District, prior, when they were Federal employees. But in 1994, that was changed to allow for anybody—if they have never worked for the District of Columbia—to receive their full Federal pension. So, in fact, that is——

Ms. Norton. I know there is an exception for cops who come back. Some of that has been abused. But there is an exception for cops. Some came back and sat down behind the same desk they left instead of getting out on the street. But there is an exception there for District workers.

Mr. STEPHENSON. I am just referring to people who were Federal employees, who never worked for the District government in their career as a Federal employee.

Ms. NORTON. Can get it in full.

Mr. STEPHENSON. There was a change in 1994, as I understand it. In fact, it provides an excellent recruiting incentive for us in terms of procurement needs, et cetera.

Ms. NORTON. I understand. You can see how a signing bonus, when, however, you are getting $120,000, and another $70 or $80,000 will strike the average person—you are sitting in a city where the workers are way behind in receiving increases, where we had to fight to get the lowest paid workers. All of that has to be taken into consideration if you want to have any credibility. And I will tell you, a few thousand dollars here or there that are not part of compensation is worth a lot of credibility often.

General BECTON. You raised a question about my salary. I do not have and did not receive a signing bonus.

Ms. NORTON. I understand that.

General BECTON. I thought——

Ms. NORTON. Sir, I understand that, and Dr. Brimmer was clear on the criteria he was using.

Mr. DAVIS. Let the chair just say, I think whatever their military pensions are are really outside the bounds of discussion.

General BECTON. Thank you.

General CHARLES WILLIAMS. Thank you.

Mr. DAVIS. In terms of the signing bonuses for the city, we have to maintain the sensitivity and understanding——

Ms. NORTON. Reclaiming my time.

Mr. DAVIS. Well, your time has been, frankly, up——

Ms. NORTON. You took as much time as you wanted to, Mr. Chairman, and I am not going to be cutoff. I am reclaiming my time.

Mr. DAVIS. Well, I am the chair of the subcommittee. I will give you a couple minutes to summarize. But we have been going on now and the subcommittee has been sitting here for some time.

Ms. NORTON. Are you keeping me from reclaiming my time?

Mr. DAVIS. You are way over time, and the chair has indulged you.

Ms. NORTON. The chair was over time as well.

Mr. DAVIS. No, that is not correct.

Ms. NORTON. Mr. Chairman, you said—just a moment. A point of special privilege. You may represent members of the armed services, and you want to say that you think pensions from the armed services are off limits. I represent the residents of the District of Columbia, and it is not off limits, and I resent being told that any question I ask in this committee is off limits. It is not off limits for me to try to bring up how much total compensation somebody who was on our payroll has, and I will not be called out of order or be told that a question I have asked with respect to taxpayers' funds in this city is out of order.

Now I accept, and talk to you, General Becton—I accept the tradeoff you had when it came to patching, on the one hand, and doing whole roofs, on the other. I also accept the notion that that would have meant some waste because you would have been patching and ultimately paying more than if you had done whole roofs.

Your testimony leads me to believe, however, that you think the cost was worth it in the delay in closing schools. And the reason I ask that question is that I think you paid a terrible price for the delay and that it has obscured much of your record.

Therefore, I would like to ask you whether in the future you believe that such a cost might be worth it or whether you think opening the schools on time is the primary responsibility that you must face, given the history of this issue.

General BECTON. Ma'am, if I were faced with the situation again, and given the conditions under which I would be faced, such as on July 11th the Court ordered all schools closed that were leaking, and all schools closed that we had planned on replacing the roofs on. That was not something that we had planned on. There was no——

Ms. NORTON. You could have rescheduled—look, you still have roofs that you have to repair, and you obviously didn't have plans to repair all the roofs. So you could have, at cost, decided the cost of not opening the schools versus the cost of additional money of repairing the roofs was such that you should have opened the schools. And I am saying that, in my judgment, the failure to open the schools, that was not worth—would have been more than worth the cost, because if for no other reason than people don't remember much of the work of the Board of Trustees, and your own work now because of one single issue and one single experience.

So, I mean, the notion that, OK, we do it again, under the same circumstances, says to me that that experience and the controversy had no effect on how you would weigh your options in the future.

General BECTON. Let me, if I may, recast that statement that I made. The judge did not give us any leeway. She said, what are the schools where you are planning on replacing roofs? General Williams gave her a list of all schools. She said, as of this date, those schools are closed. We had no choice.

Would you please go into detail?

General CHARLES WILLIAMS. Yes. Delegate Norton, we had completed our rounds of fire code abatements and had a clean slate of schools in July. If schools were open in July, we would have had no problem. I received a call to appear at the court over lunch hour, and I was asked by the court, "what are you planing—I understand you have work planned. Will you tell me what is planned?" And I listed the schools. And on that day she closed the schools, the schools that were cited by me.

Ms. NORTON. Did you or anyone in the school system ask the judge to use her good offices to try to bring everybody to the table for a settlement?

General BECTON. Did I?

Ms. NORTON. Or anyone.

General BECTON. No, she would not talk to me.

Ms. NORTON. Mr. MacLaury.

Dr. MACLAURY. I did not so request.

Ms. NORTON. I am absolutely with you on the issue of the judge, there is no question about it, and the folks who see the judge as the hero in this don't know the facts as you know them and as I know them.

Dr. MACLAURY. May I make one comment on this question that you asked General Becton, if he would do it over again, because you absolutely correctly portrayed the public's disgust with opening the schools late. There is no question about that. We are not talking about that.

The question is, of the administration and the trustees—would we be better off in the view of the public if schools continued to have to be shut by the judge's order every time they leaked? We went through that. We don't have to guess.

We know that the public supported the judge, apparently that she had made herself a heroine. The decision was not to get a few roofs replaced and save some money, the choice was to get the roofs replaced to minimize the risk of disruption throughout the school year, as schools had to be closed by the judge and children shuffled off to other buildings; that was the decision.

Ms. NORTON. I understand that the choice was not well understood by the public, you are absolutely right, and I think that from here on in, if we recognize whatever priority it should have, in the ordinary course of things, opening the schools probably should have the first priority now.

Thank you, Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you very much.

Let me get back to the pension issue. I am not trying to silence anybody on the pension issue, but I think what somebody makes in the outcome, what they have inherited, what they have earned in previous pensions, it really shouldn't be part of it.

Ms. NORTON. That, too, is a matter of public record.

Mr. DAVIS. Sure it is, but it shouldn't be part of the discussions on compensation here.

Ms. NORTON. I disagree and take exception to it.

Mr. DAVIS. I think you served your country well and earned that pension.

Ms. NORTON. No one said they shouldn't have the pension.

Mr. DAVIS. I have the floor now.

Ms. NORTON. Well, you interrupted me and I am going to interrupt you on that score. I am going to ask whatever questions I want to ask.

Mr. DAVIS. Regular order.

Ms. Norton, this is really not called for. I have indulged you at length. I am just giving my philosophy on it.

You have served the country well. What you have earned—I feel the same for civil servants. Once people have earned their pensions, they have served their time, they should not be penalized in getting other jobs. It hurt us in local government when we would not allow members who would serve the county to come back and work in other jobs, and we ended up——

Ms. NORTON. No one is suggesting they should be penalized and should not receive their pension. I will not have it characterized that way.

Mr. DAVIS. I am not characterizing it that way.

Ms. NORTON. I will not have you characterize that I said they should not receive their pensions. For the record, they should receive every bit of pension, and I am entitled to know what they are.

Mr. DAVIS. Let me ask a question. There is a—Ms. Norton, I have got to say, I have indulged as many questions as you wanted, and you are entitled to your opinion, I am entitled to mine, and we do not agree on this.

City Paper had a column by Loose Lips on, "D.C. Schools Pamper Promise Keepers." General Williams, I am sure you are aware of that column, and a number of facts were put forward in that. Do you have any reaction to that?

General CHARLES WILLIAMS. Yes, Chairman Davis.

Mr. DAVIS. I will give you an opportunity on the record to clear that up.

General CHARLES WILLIAMS. Yes, thank you very much. This is a very disturbing article.

The Promise Keepers organization, an organization I had not even known before, one of the executives contacted me in early June and recognized the plight we were in here with our facilities, indicated that they were scheduled to come into the District of Columbia for one of their annual rallies, and said they had some men of the organization who felt and were moved to try to come out and help, and asked me if they could help. I thought it was a gracious thing to do. And so 1,500 of his people assembled at RFK Stadium, and we provided transportation to 44 schools, and they went out and picked up our trash, cut our grass, and did some painting I would point out, some schools received a tree line, grass line, cutback for the first time.

Mr. DAVIS. I don't disagree with you.

General CHARLES WILLIAMS. Let me just speak to this. The net net of this is, we gave them a sandwich, some chips, and a Coke, and transported them to our sites to pick up our trash and to paint our buildings. That netted to about $60,000 in the total for the two events, with 3,400 people, and we received about $600,000 of in-kind effort.

Mr. DAVIS. But point in fact, the fleet was not rented for this purpose; is that correct?

General CHARLES WILLIAMS. Correct. The fleet—Chairman Davis, we were getting ready to go with our summer capital program. This was training and a rehearsal for our new project management staff, so it was a coincidental arrangement. We have no vehicles for our people to move around in, and this was a part of the normal piece of management and the support and it just so happened that our project managers had to supervise that day.

General BECTON. The word "shakedown," I would rephrase that.

Mr. DAVIS. One of the difficulties we have up here is, when we are not communicated with, we are reacting to the stories back and forth. Ms. Norton represents the city very ably, and she is skirting back on some of these bonus issues. I understand that, and you have to recognize, we have to keep in communication; we are all wanting the same thing. We have disagreements up here, as you have just seen, but we end up at the end of the day working together in the same direction in focusing on that, and we need to do that with everyone here, and the congressional committee, too.

General BECTON. You got a commitment from us.

General CHARLES WILLIAMS. Mr. Davis, if I may, because my boss asked me to strike the word "shakedown," it was a way of——

Mr. BECTON. Rehearsal.

Mr. CHARLES WILLIAMS [continuing]. Rehearsal.

Mr. DAVIS. Without objection, all written submissions from witnesses will be made part of the permanent record. The record will remain open for 20 days for the purpose of receiving additional written answers to questions propounded by subcommittee. The subcommittee will continue to work with all interested parties in an ongoing effort to achieve a higher quality of education in the District of Columbia.

Next week, on Friday, January 30, at 9 a.m., the subcommittee will hold a further hearing on the implementation of the management reforms which have been enacted. At that time, we expect to hear from the new chief management officer appointed by the Control Board, Dr. Camille Barnett.

These proceedings are closed. Thank you.

[Whereupon, at 3:56 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

PREPARED TESTIMONY OF JONATHAN MILLER, AIA

Associate Vice President -- Daniel, Mann, Johnson & Mendenhall
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
January 23, 1998

Good Morning. My name is Jonathan Miller. I am an Associate Vice President with the architectural and engineering firm of Daniel, Mann, Johnson, & Mendenhall (DMJM), and am a registered architect in Washington, DC and Maryland. I am appearing before this panel in my capacity as the Project Manager for the DC Public Schools project. My 20 years of design and construction experience in the Washington, DC metropolitan area have allowed me to become well versed in Federal sector projects, including projects for GSA, Department of the Treasury and the FBI. I recently served as the Lead Architect for design management for the New Terminal at National Airport.

DMJM is a 52 year-old, multi-disciplined professional services firm with over 1400 professionals in 20 offices worldwide. We provide architecture, engineering and construction management services to a range of public and private sector clients, and we have been serving the metropolitan Washington community for 43 years. We are currently providing program management services for the Pentagon renovation, Department of Labor Job Corps Centers located across the nation, National and Dulles Airports, and the Federal Emergency Management Agency (FEMA). Unlike these projects, we are not providing comprehensive Program Management or Construction Management services to DC Public Schools. Rather, as I will explain more fully in a moment, we provide technical advice and field representation on numerous tasks.

DMJM's relationship with the DC Public Schools project actually grew out of an existing relationship with the General Services Administration (GSA). DMJM was awarded an indefinite delivery contract from the GSA in 1994, having competed in a qualifications-based selection. That contract enabled authorization of Task Orders, utilizing pre-negotiated hourly rates. When DC Public Schools first requested assistance from GSA, we were among several firms under contract to GSA, all of whom were made available to DC Public Schools. DMJM participated in several early tasks which were ultimately for the benefit of DC Public Schools, but which were carried out under GSA direction and guidance. In early summer 1997, GSA delegated tasking authority directly to DC Public Schools, enabling DC Public Schools to utilize the GSA contract. As the tasks became more challenging, with shorter and shorter time frames, some firms were unable or unwilling to respond to DC Public Schools's emergency needs. DMJM tried to remain responsive to the needs of DC Public Schools throughout the remainder of the 1997 year.

We actually provided a number of different services for DC Public Schools during 1997. Our first involvement with the roof replacement program was two tasks performed directly for GSA, involving design of new roofs and related work for two schools. We also provided services during construction for these schools throughout the summer, including review of shop drawings, and periodic field observation.

In June, DC Public Schools authorized DMJM, through the GSA contract, to provide Scopes of Work for roof replacements at 15 schools. DC Public Schools required these scopes within three weeks, in order to allow sufficient time for procurement and construction. DMJM deployed several teams, working evenings and weekends to accomplish the task.

DC Public Schools planned to use these Scopes of Work as a part of a Request for Proposal (RFP) package, to procure a design-build contract, via competitive bidding. Design-build contracts utilize a single entity to provide both design and construction services and can be employed to shorten the overall duration of a construction project. The Scopes, therefore, were not a complete design, but described the design intent, and formed the technical component of the RFP. DMJM sought to define two key items for each roof Scope:

1. the location and extent of the required work; and
2. the quality level of the installed products.

In developing the Scopes, DMJM visually surveyed each roof, reviewing and photographing existing conditions. For each school, we prepared a diagrammatic roof plan, a narrative of the required work, a technical specification establishing quality standards for each component, and a cost estimate.

Just as we were completing the first 15 Scopes, DC Public Schools requested DMJM to prepare an additional 33 Scopes. We again provided these services within a three week time frame. The challenge for the remainder of the summer was now clear - replacing approximately 50 roofs in less than two months.

DC Public Schools asked DMJM to assist them in monitoring the construction, to verify that construction was in accordance with the requirements of the design-build contract. We staffed the project with over 30 people to accomplish the work, many of whom worked 7 days per week routinely for the next two months. Night work was also common, particularly because contractors needed cooler temperatures to effectively remove old roofing membranes. While DC Public Schools administered the contractual aspects, such as directing the Contractor and negotiating Change

Orders, DMJM augmented the DC Public Schools field staff, by reviewing proposed design details, providing daily reports on each roof, and monitoring progress.

During the summer, we were also asked by GSA to provide traditional construction management services on three additional DC schools. Unlike the tasks performed for DC Public Schools, DMJM provided a more traditional range of management services on these schools, including review of the construction progress with the contractor, issuing field directives, and making recommendations on contractual issues, such as Change Orders, and requests for payment.

We believe our contribution in 1997 has helped to make a difficult, crises-laden situation better than it might have otherwise been. Now that emergencies have subsided somewhat, much important work remains for DC Public Schools to undertake. We look forward to any future contributions we can make towards bringing DC Public Schools facilities up to first-class condition.

Attached is a Stewardship Report we prepared earlier this month, reviewing the events of the past year, and addressing issues of cost and quality on the overall re-roofing effort. Also attached is an illustrative sketch, demonstrating some of the complexities typically encountered in renovating older school buildings; the type that comprise much of the DC Public Schools inventory.

I would be happy to answer any questions the Committee may have at this time.

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50 YEARS

January 5, 1998

Charles E. Williams, MG USA (Ret.)
Chief Operating Officer
Director of Facilities
District of Columbia Public Schools
415 12th Street, NW, Suite 903
Washington, DC 20004

Dear General Williams:

Daniel, Mann, Johnson, & Mendenhall (DMJM) regularly reviews our work on noteworthy projects to provide what we call a Stewardship Report. We felt that the beginning of 1998 would be an appropriate time to review the events of the past year and summarize our efforts on behalf of the District of Columbia Public Schools (DCPS). We are exceptionally proud of the legacy of work completed in 1997 on behalf of DCPS and trust you share our sense of achievement.

We began work in February with the prioritization study — a three-week compilation and assessment of existing facilities documentation for all 165 schools including a walk-through sampling of 16 schools. As we worked, we created a data base to identify needs, set priorities, and establish budgets for the deficiencies throughout the school system, which numbered in the thousands.

Roof repairs emerged as the single most important deficiency requiring immediate attention. We developed a series of Scopes of Work that outlined the performance requirements and broad construction methods required to protect 48 of the most critically damaged schools from further deterioration from leaky or otherwise seriously damaged roofs. These Scopes of Work, including specifications, formed the technical components of the design/build contracts executed between DCPS and the numerous General Contractors involved in this past summer's reroofing efforts. Eventually the roofing program was expanded from the 48 to encompass 56 schools. Once the roof repairs were underway, we provided Construction Administration services, including a daily presence, seven days a week, for each of the 56 roofs.

Although the term "reroofing" is used most frequently to describe the work, it is partially a misnomer. Certainly the work that was completed in nine weeks by DCPS focused on protection of the building envelope, primarily the roofs. However, we found extensive related damage, often resulting from the deteriorated roofs, that required additional repairs far beyond the initial scope of the roofing

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replacement. Substantial flashing replacement, repointing of masonry, and overall stabilization of adjacent parapets, for example, contributed to a program that grew in size, even as best efforts were made to control costs.

We believe it is fair to say, however, that the approach taken by DCPS, requiring the contractor to attend to broader protection of the schools, resulted in long-term savings. The building components that were repaired should require no more than normal maintenance during their useful 20-year life. Had DCPS chosen a more literal approach, i.e., the specific replacement of selected roof areas and no more, then much of the investment in the roofs would have diminished as adjacent damage would have continued to fuel the deterioration of the recent repairs.

Much public discussion occurred during the summer months, comparing the work to maintenance efforts in surrounding counties and questioning whether DCPS paid unacceptable premiums for procuring such a large amount of work in such a short period of time.

The discussions failed to recognize, however, that the DCPS program was not an ordinary, ongoing maintenance reroofing program; it was an emergency repair program. As such, it is not comparable to reroofing programs (or costs) experienced in the surrounding counties. In addition, the discussions overlooked a truly long-term benefit to DCPS: the quality of the constructed work.

We can jointly attest that the contractors who completed the roofing efforts under extreme time constraints met the quality requirements set forth in the Scopes of Work, and the roofing contractor community itself has acknowledged the quality of the installed roofs.

Finally, the diversity of roof types encountered across the city, and even on a single school, contributed to the complexity of the repairs and required the use of multiple roofing specialists. Built-up roofs require different installation skills than clay tile roofs; sheet membrane systems differ from shingle systems; and metal roofing is yet altogether different.

The contractors were required to mobilize quickly, finalize design, secure necessary permits, secure the roofing and building materials, and determine a staging and phasing plan, even as they were demolishing the existing roofs, sometimes finding unforeseen deterioration.

The overall quality and the simple act of completion of the roofs seem to have been lost in the discussions of cost. Cost control clearly was an issue, though. DCPS was required to competitively bid work that by its nature carried premium costs: Night and weekend work, occasional loss or theft of materials, unforeseen conditions, and aging buildings all contributed to the "above norm" costs that were noted in the bids. Again, what has been overlooked by the media and other observers who seek to compare DCPS with surrounding counties is that the inventory of DCPS buildings is from a different era, a time when the simplicity of modern construction and generic roofing systems found on the schools built from the 1960s to 1980s did not exist. Thus, the contractors were forced to account for out-of-the-ordinary conditions.

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In addition to school facilities made safe for students, the emergency repair program generated an additional benefit that will serve DCPS and the District into the future. DCPS developed and put in place a *process* for managing the work even as work *progressed*, a challenge under normal circumstances. That DCPS accomplished not only the construction program, but the equally difficult task of adapting its management structure to address an emergency program, and subsequently ongoing facilities repairs, deserves note. Consistency of inspections, cooperative and reasoned assistance from the building code officials, and a single-minded focus on the need to build quality into the work, all helped to achieve not only the reroofing program, but also the management infrastructure necessary to address the next construction program.

In this past year in Washington, many noteworthy building programs have come to completion: The New Terminal at National Airport and the Expansion of Dulles, the MCI Arena, Jack Kent Cooke Stadium, and the Ronald Reagan Building.Given the schools' impact on the future of the City's residents, children and adults alike, we would count the DC Public Schools among these programs. Each had a different budget and schedule; each was complex in its own way.

DMJM plays a key role on some of the largest construction programs ongoing in the Washington metropolitan area. We are proud to have contributed to this program and your success in accomplishing what few organizations have ever achieved: Emergency repairs delivered well, under extreme scrutiny and time constraints.

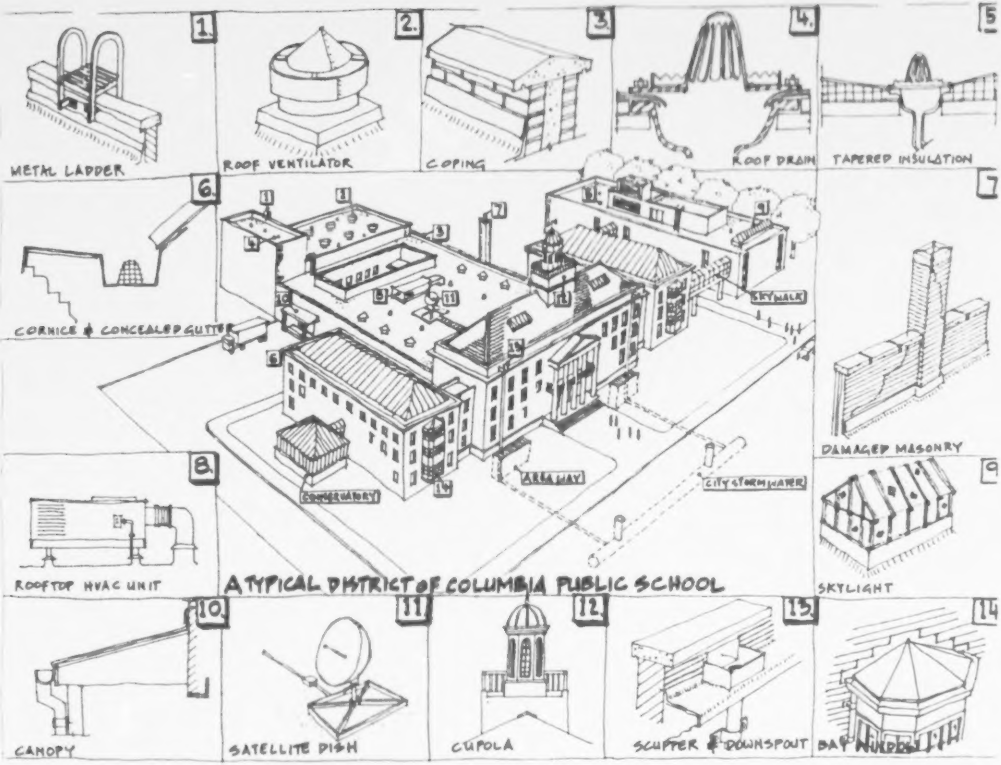
Congratulations.

Sincerely,

DANIEL, MANN, JOHNSON, & MENDENHALL

William D. Hooper, Jr., AIA
Associate Vice President /
Director of Operations

cc: Andrew Brimmer, Chairman, DC Financial Responsibility and Management Assistance Authority
Bruce McLaury, Chairman, DC Public Schools Board of Trustees
General Julius Becton, Chief Executive Officer, DC Public Schools



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DAMAGED MASONRY
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CUPOLA
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SCUPPER & DOWNSPOUT
14
BAY WINDOW
SKYWALK
CONSERVATORY
AREAWAY
CITY STORMWATER

A TYPICAL DISTRICT OF COLUMBIA PUBLIC SCHOOL

CONCERNED BUILDING CONTRACTORS' ASSOCIATION
10540 ASSEMBLY DRIVE
FAIRFAX, VIRGINIA 22030
(703) 827-9200

February 5, 1998

Dr Andrew Brimmer
Chairman
D.C Financial Responsibility
& Management Assistance Authority
One Thomas Circle
Suit 900
Washington, D.C 20005

Dear Dr Brimmer:

We are concerned by recent media and public accounts about the D.C. Public Schools' (DCPS) roofing repair contracting. We feel these accounts inaccurately depict events leading to the emergency contracting situation last summer. In addition, the descriptions cast dispersions on our industry and we take issue with that. The fact is that building contractors repaired more than 60 DCPS roofs with unparalleled quality, in a record six weeks at a reasonable price. This was accomplished despite unprecedented time pressures and supply and labor shortages.

The complexities typically encountered in renovating older school buildings, like those in the District, are considerable. Extensive repair was required to more than 60 schools to eliminate fire code violations. Engineering core samples revealed structural degeneration --- rotting joists and decayed subroofs. The extent of the deterioration caused project scopes to expand from roof repair to actual structural rebuild. GSA contractor, DMJM, states in its Stewardship Report, "Substantial flashing, replacement, repointing of masonry, overall stabilization of adjacent parapets contributed to a program that grew in size . . ."

We applaud General Charles E. Williams for making the many tough decisions needed to repair D.C. Public Schools. With time constraints imposed by the oversight judge and the threat of daily fines, Mr Williams moved quickly to secure competitive bids and competent contractors in an attempt to avoid delaying the opening of school. Under his leadership, some of the most respected building contractors on the East coast provided the D.C. Public Schools with the best quality roofing and reconstruction services available.

It should be noted that many building contractors were reluctant to do business with the District because of the city's tenuous financial condition. It was our faith in General Williams' impeccable reputation that instilled trust and prompted contractors to participate. Moreover, many contractors postponed prior jobs to help get the schools open on time.

Dr. Brimmer, you are aware of the unfortunate circumstances leading to a three-week delay in school opening. At a recent hearing convened by Congressman Tom Davis' Subcommittee on the District of Columbia, Congresswoman Norton heard the District's top administrators say that the District's cash flow problems led to a lack of availability of repair funds. Administrators also stated that DCPS's Chief Financial Officer could not get the school funds released from the District's Chief Financial Officer because the Mayor was evaluating reallocating some of the funds. Testimony before the Subcommittee was clear that there was confusion about when the D.C. Financial Authority released funds to the District and when the District released funds to DCPS. Congresswoman Norton astutely noted that the three-week delay in funds transfer is the same three weeks that school opening was delayed. This is what led to the emergency contracting that pushed costs up.

Our association looks forward to the results of the Inspector General's review requested by General Becton. Hopefully, it will accurately reflect our experience. The real story in the repair of D.C. Public School roofs is Mr. Williams' assiduous leadership and the tireless efforts of a team of contractors who took on a challenge to do what had never been done before — major repair to the upper portion of these old buildings.

It is easy to second guess decisions that Mr. Williams made to get the schools open. Given the daily fines DCPS was incurring from the oversight judge and the desire to get the schools open on time, what other choice did he really have?

As contractors and taxpayers, we look to District leaders to create a business friendly environment. This is the surest way to guarantee a quality supplier base and jobs for the District of Columbia.

Thank you for the opportunity to share our views.

Sincerely,

Michael Parrish
President

cc: **The Honorable Tom Davis**
The Honorable Eleanor Holmes Norton
The Honorable James Jeffords
The Honorable Lauch Faircloth
The Honorable Bob Livingston
The Honorable Marion Barry
The Honorable Linda Cropp
General Julius W. Becton
Keith Harriston, City Editor, The Washington Post

50 YEARS

February 10, 1998

The Honorable Tom Davis, Chairman
Subcommittee on the District of Columbia
US House of Representatives
B-349A Rayburn House Office Building
Washington, DC 20515

Re: Oversight Hearing on the District of Columbia Public School 1997 Repair Program and Facilities Master Plan
Submission of additional written testimony

Dear Chairman Davis:

Thank you for this opportunity to submit additional written testimony in connection with the DC Public Schools renovation program.

The attached matrix provides a summary of estimated construction cost for window replacements planned by DC Public Schools for FY 1998. These construction estimates are based on review of construction documents, prepared by other firms, coupled with field visits to ascertain individual site conditions. These estimates should therefore provide a more reliable picture of anticipated costs than the planning numbers described during the hearing.

We are available to answer any questions you may have on the enclosed materials.

Sincerely,

DANIEL, MANN, JOHNSON, & MENDENHALL

Jonathan Miller, AIA
Associate Vice President

1525 Wilson Boulevard, Suite 1100, Arlington, Virginia 22209
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DCPS FY 1998 WINDOW COST ESTIMATES

#	School	Ward	Building Area SF	Total Window Units	Estimated Direct Cost	Average cost Per Window	Estimated Total Cost
1	Browne JHS	1	215,000	815	$939,221	$1,152	$1,220,987
2	Davis ES	4	71,100	409	$432,870	$1,058	$562,731
3	Francis JHS	7	96,000	242	$266,914	$1,103	$346,988
4	Hardy ES	3	17,500	167	$213,479	$1,278	$277,523
5	Hearst ES	1	17,400	65	$72,130	$1,110	$93,769
6	Key ES	3	17,400	68	$74,627	$1,097	$97,015
7	MacFarland ES	2	109,965	400	$426,079	$1,065	$553,903
8	Peabody ECDC	7	37,800	166	$191,301	$1,152	$248,691
9	Slowe ES	8	54,500	273	$253,466	$928	$329,506
10	Stoddert ES	4	17,400	64	$75,004	$1,172	$97,505
11	Taft JHS	2	194,300	736	$794,171	$1,079	$1,032,422
	TOTAL		848,365	3,405	$3,739,262	$1,098	$4,861,041

COTTON & COMPANY
Certified Public Accountants, LLP
333 North Fairfax Street • Suite 401 • Alexandria, Virginia 22314

David L. Cotton CPA CFE
Charles Hayward CPA CFE

Michael W. Gillespie CPA CFE
Catherine L. Nocera CPA

Ellen P. Reed CPA
Matthew H. Johnson CPA

January 28, 1998

Mr. Ron Hamm
Staff Director
Subcommittee on the District of Columbia
House Committee on Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Mr. Hamm:

I listened with interest to the DCPS panel's testimony last Friday. I am concerned that some statements made during that testimony might, if not clarified, mislead the Subcommittee. (I am certain that neither General Becton nor General Williams would deliberately or knowingly mislead the Subcommittee or deliberately or knowingly allow anyone under their command to mislead the Subcommittee. Rather, I suspect that General Becton and General Williams may have been inadequately informed by their staff regarding matters related to the audit.) I offer the following supplemental information in order to make sure that the Subcommittee has a complete and accurate understanding of matters that occurred during our audit. Please share this information with Subcommittee members and supplement the hearing record, as you deem appropriate.

Regarding noncooperation during the audit:

In response to a question regarding noncooperation, Dr. Brimmer stated that the DCPS contract files were initially given to us and then taken back for a time at the audit's beginning. General Becton took vehement exception to this and indicated that this was the first that he had heard of this problem. While it was true that we had difficulty obtaining all of the contract files at the audit's beginning, we did not at the time view this as noncooperation by DCPS personnel. (In later discussions with the Authority concerning the need to extend the audit's performance period, we cited this as a delay and disruption beyond our control.) I regret not having spoken up to clarify this on Friday.

I fear that General Becton's statements, however, may be construed as indicating that we failed to alert DCPS about these problems. Although we did not view this matter as indicative of noncooperation, the DCPS staff was fully and repeatedly informed about problems that we encountered gaining access to the files. Our written progress reports dated November 7th, November 14th, November 21st, December 1st, and December 5th highlighted these problems under the bold heading ***Delays/Potential Delays***. I can provide copies of these progress reports for the record, if you wish.

The Subcommittee may also need to be aware that noncooperation extended beyond not obtaining the requested management representation letters. In fact, we were hopeful that obtaining the management representation letters would resolve some other issues. The following unresolved and significant issues arose during the audit:

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- A DCPS staff member told us that a folder containing letters evidencing substantial project completion had been compiled. On 4 occasions, we asked 3 different DCPS staff members for access to this information. (Our last request for this was in writing on December 12th.) We did not receive this information.

- One of our audit objectives was to assess the qualifications of personnel responsible for procurements. We asked (orally, and then in writing on December 12th) for specific confirmation of the list of all individuals who had been responsible for the procurements. We did not receive this information.

- We discovered from non-DCPS sources late in the audit that 2 DCPS procurement personnel had pleaded guilty to accepting bribes and illegal gratuities from a construction contractor. We were led to believe that these individuals had no involvement in the Fiscal Year 1997 CIP procurements. We asked for documentation about these illegal acts. Following a delay, we were provided with a copy of the prosecutor's information to which the employees reportedly pleaded. We asked (several times orally, and then in writing on December 12th) for more detailed information about the specifics surrounding these illegal acts. We did not receive this information.

Our concerns about not being able to obtain, examine, and evaluate this potentially crucial information were exacerbated by the subsequent refusal by DCPS personnel to provide the written management representations we requested.

Regarding the management representation letters:

The DCPS panel's testimony Friday conveyed the impression that our request for written management representations was unusual, inappropriate, and unfair. Mr. MacLaury and General Becton stated that they consulted other audit professionals on this matter, and were told that our request was unusual or inappropriate. General Becton also conveyed an impression that our request for these letters came as a surprise to him, and that we did not adequately explain them to DCPS staff. Mr. Stephenson stated that he had never heard of the use of management representation letters in a performance audit during his 26 years with GAO. I think clarification on these important matters is needed.

Use of management representation letters is a required audit procedure for financial audits, a recommended but optional procedure for agreed-upon procedures engagements, and an optional procedure in performance audits. Specifically, the General Accounting Office position on this is contained in *Government Auditing Standards*, 1994 Revision, Chapter 6, *Fieldwork Standards for Performance Audits*, paragraph 6.55, as follows:

> *Auditors may find it useful to obtain from officials of the auditee written representations concerning the competence of the evidence they obtain. Written representations ordinarily confirm oral representations given to auditors, indicate and document the continuing appropriateness of such representations, and reduce the possibility of misunderstanding concerning the matters that are the subject of the representations.*

Government Auditing Standards is the publication that guides and governs all of GAO's work. I simply do not understand Mr. Stephenson's seemingly contrary assertion.

We informed DCPS staff that we were drafting and would request management representation letters during a progress meeting on December 1st (attended by 5 DCPS senior staff members, including Mr. Stephenson); and again during a progress meeting on December 5th (again, attended by 5 DCPS senior staff members, including Mr. Stephenson). Our written progress reports (provided to all in attendance at each progress meeting) also documented our plans regarding management representation letters. No questions were raised about the purpose or propriety of the letters by any DCPS personnel.

I gave the draft letters to Mr. Stephenson on December 12th. A cover memo to Mr. Stephenson offered to answer any questions regarding the letters. Mr. Stephenson's administrative assistant printed the letters onto appropriate DCPS letterhead that day and asked me to proofread them. I proofread them and returned them to her that day. I followed up on the letters with Mr. Stephenson on December 17th. He informed me that the DCPS general counsel had advised that the letters should not be signed. I again offered to meet with DCPS personnel to clarify the purpose of the letters. No DCPS personnel contacted me again about the letters until January 12th, after the final report had been issued by us and released by the Authority.

Either General Becton or Mr. MacLaury referred to our requested letters as "cookie-cutter" letters that were almost identical in all 6 cases. The impression given was that this was inappropriate. This conveys a misleading impression about the nature and purpose of management representations. When management representation letters are requested they are *required* to contain all "matters that are considered either individually or collectively material..."[1] The careful language of each letter did not assert that the *requested signer* had made all of these representations to us. Each letter contained all material representations made to us "explicitly or implicitly"[2] during the audit about which the requested signer had or may have had knowledge. Our expectation was that the requested signer would follow up to find out, for example, what information we had been given regarding the indictment of two former DCPS officials and provide us with any additional information of which the requested signer was aware, and so forth. As I told Mr. Stephenson on December 17th and as I stated on Friday, a key phrase in each of the letters is *to the best of my knowledge and belief.*

DCPS's refusal to sign these letters troubles me greatly, because in the context of other evidence obtained during the audit, I am forced to consider the possibility that information may have been deliberately withheld from us.

Regarding General Becton's assertion that we inappropriately did not meet with him sooner during the audit:

General Becton asserted angrily that we did not seek him out earlier during the audit and also said or implied that he wanted to talk to us during the audit but that we declined to meet with him.

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[1] Statement on Auditing Standards Number 85, *Management Representations*, paragraph 8.

[2] Statement on Auditing Standards Number 85, *Management Representations*, paragraph 2.

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We were instructed that our official point of contact within DCPS was Mr. Stephenson, and that all contacts with DCPS personnel should be made through him. Accordingly, we scheduled our entrance conference through him. We assumed that he would assemble DCPS officials deemed necessary for that initial meeting. We held that meeting on October 29. I was surprised when the only DCPS official in attendance was Mr. Stephenson. At that meeting we specifically asked Mr. Stephenson who he thought we should meet with during the audit. General Becton's name was not mentioned. (My impression at the time was that our audit was not deemed to be of significant importance to warrant General Becton's attention.)

We held weekly progress meetings with DCPS staff members. Again, these were scheduled through Mr. Stephenson. I think it would have been inappropriate and presumptuous for us to have tried to dictate who from DCPS should have attended these meetings. These meetings were held on November 7th, November 14th, November 21st, December 1st, and December 5th. At each of these meetings we discussed with DCPS senior staff the problems and findings that were being encountered and identified. More importantly, we provided each attendee at these meetings with a written summary of these problems and potential findings. I believe it was DCPS staff's responsibility to gage what General Becton would deem worth his interest and keep him fully advised.

At the November 21st progress meeting, most of the final report's findings were outlined and explained to those in attendance. Members of the DCPS staff said that it was essential for us to talk to General Williams (and we had 2 subsequent meetings with him). *I specifically asked DCPS personnel if we should also talk to General Becton. They said no.* Again, the impression I received was that they did not view the audit and its results as of significant importance to warrant General Becton's attention.

At no time prior to December 9th did anyone tell us that General Becton wanted to talk with us. On December 9th, we were informed that General Becton wanted to meet with us that afternoon. I was in San Antonio, Texas that day, and Mr. Fritts asked if the meeting could be delayed until the following morning. He was told that it could not. On my return on December 10th, General Becton asked to see us again and we complied without hesitation. At all times we remained accessible to General Becton.

I will be glad to share with you and the Subcommittee copies of documents provided to DCPS staff during the audit that will substantiate our "no surprises" approach to the audit.

I continue to be concerned that DCPS is not taking seriously our recommendations regarding strengthened control procedures. At the absolute minimum, DCPS should be ordered to do the following to protect the government's valuable assets and the organization's honest employees.

- Insist on strict segregation of key procurement and contract management duties.
- Insist on maximum and open competition for contracts.
- Establish and enforce key supervisory review and approval requirements for all key procurement and contract management actions and decisions.
- Insist on careful, complete, consistent, and contemporaneously maintained documentation of all procurement and contract management decisions, actions, and approvals.

G&C

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I will be happy to provide you and the Subcommittee with copies of key workpapers that will substantiate the fact that we kept DCPS staff fully informed at all times during the audit as summarized above. Please do not hesitate to call me.

Very truly yours,

COTTON & COMPANY, LLP

By: ______________________
David L. Cotton, CPA, CFE

cc: Mr. John W. Hill, Jr.

C&C

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